

# NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

## Act 451 of 1994

### ARTICLE I

#### GENERAL PROVISIONS

##### PART 1

##### SHORT TITLE AND SAVINGS CLAUSES

#### **324.101 Short title.**

Sec. 101. This act shall be known and may be cited as the “natural resources and environmental protection act”.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.102 Repeal of statute; effect.**

Sec. 102. The repeal of any statute by this act does not relinquish any penalty, forfeiture, or liability, whether criminal or civil in nature, and such statute shall be treated as still remaining in force as necessary for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture, or liability.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.103 Heading or title; effect.**

Sec. 103. A heading or title of an article, chapter, part, or subpart of this act shall not be considered as a part of this act or be used to construe the act more broadly or narrowly than the text of the sections of the act would indicate, but shall be considered as inserted for the convenience of the users of this act.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.104 Members of predecessor agency; powers.**

Sec. 104. When a board, commission, committee, council, or other agency created by or pursuant to this act was preceded by an agency with the same or similar name and functions, members of the predecessor agency shall continue in office for the duration of the terms of office for which they were appointed and with the new members appointed shall constitute the new agency. Members shall be appointed under this act only as terms of the former members expire or vacancies occur. Members of the predecessor agency may be appointed to the new agency to succeed themselves subject to the limits for the total period of service set forth in this act.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.105 Existing rules; effect.**

Sec. 105. When the department or other agency is directed to promulgate rules by this act and rules exist on the date the requirement to promulgate rules takes effect, which rules the department or agency believes adequately cover the matter, the department or agency may determine that new rules are not required or may delay the promulgation of new rules until the department or agency considers it advisable.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.106 Orders; effect.**

Sec. 106. Except as otherwise provided by law, this act does not repeal or alter the content or effect of orders that were issued pursuant to an act that is repealed by this act and codified as a part of this act.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.107 Editorial changes; effect; intent.**

Sec. 107. It is the intention of the legislature that editorial changes in the language of statutes codified as parts within this act not be construed as changes to the meanings of those statutes.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 3 DEFINITIONS**

### **324.301 Definitions.**

Sec. 301. Except as otherwise defined in this act, as used in this act:

- (a) "Commission" means the commission of natural resources.
- (b) "Department" means the director of the department of natural resources or his or her designee to whom the director delegates a power or duty by written instrument.
- (c) "Department of natural resources" means the principal state department created in section 501.
- (d) "Director" means the director of the department of natural resources.
- (e) "Local unit of government" means a municipality or county.
- (f) "Michigan conservation and recreation legacy fund" means the Michigan conservation and recreation legacy fund established in section 40 of article IX of the state constitution of 1963 and provided for in section 2002.
- (g) "Municipality" means a city, village, or township.
- (h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.
- (i) "Public domain" means all land owned by the state or land deeded to the state under state law.
- (j) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 5 DEPARTMENT OF NATURAL RESOURCES GENERAL POWERS AND DUTIES**

### **324.501 Department of natural resources; creation; powers and duties; commission of natural resources; creation; powers; appointment, qualifications, and terms of members; vacancy; removal; meetings; secretary; chairperson; quorum; conducting business at public meeting; notice; appointment and employment of director; appointment of deputy director, assistants, and employees; powers and duties of persons delegated decision making authority; vacancy in office of director; compensation and expenses; offices and equipment; oath.**

Sec. 501. (1) A department of natural resources for this state is created which shall possess the powers and perform the duties granted and imposed by this act and as otherwise provided by law.

(2) The commission of natural resources is created as the head of the department of natural resources and may establish general policies related to natural resources management and environmental protection for the guidance of the director. In addition, the commission has appellate authority as provided in section 1101. The commission shall be composed of 7 members, not more than 4 of whom shall be members of the same political party, appointed by the governor by and with the advice and consent of the senate. A member of the commission shall be selected with special reference to that person's training and experience related to at least 1 of the principal lines of activities vested in the department of natural resources and the ability and fitness of that person to deal with those activities. The term of office of each member of the commission shall be 4

years. The governor shall fill a vacancy occurring in the membership of the commission and may remove a member of the commission for cause after a hearing. Each member of the commission shall hold office until the appointment and qualification of that member's successor.

(3) The commission, within 30 days after having qualified and annually after that time, shall meet at its office in Lansing and organize by appointing a secretary, who need not be a member of the commission. The governor shall appoint a chairperson of the commission from among its members, who shall serve as chairperson at the pleasure of the governor. Four members of the commission constitute a quorum for the transaction of business. The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. A meeting may be called by the chairperson and shall be called on request of a majority of the members of the commission. A meeting may be held as often as necessary and at other places than the commissioners' offices at Lansing. The commission shall meet at least once each month.

(4) The commission shall appoint and employ a director who shall continue in office at the pleasure of the commission. The director shall appoint 1 or more deputy directors and other assistants and employees as are necessary to implement this part and any other law of this state affecting the powers and duties of the department of natural resources. A person to whom the director has lawfully delegated decision making authority in writing may perform a duty or exercise a power conferred by law upon the department at the time and to the extent the duty and power is delegated to that person by the director. When a vacancy in the office of director occurs, or the director is unable to perform the director's duties or is absent from the state, the powers and duties of the director as prescribed by law shall be imposed on and transferred to a deputy director until the vacancy is filled or the director's inability or absence from the state ceases.

(5) The compensation of the deputy directors, the assistants, and the employees and the number of assistants and employees shall be subject to the approval of the state administrative board. The members of the commission shall not receive compensation under this part, but each member and the other officers and employees of the department of natural resources shall be entitled to reasonable expenses while traveling in the performance of their duties prescribed by this act. The salaries and expenses authorized under this act shall be paid out of the state treasury in the same manner as the salaries of other state officers and employees are paid. The department of management and budget shall furnish suitable offices and office equipment, at Lansing, for the use of the department of natural resources. Each member of the commission and the director shall qualify by taking and subscribing to the constitutional oath of office and by filing it in the office of the secretary of state.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**Administrative rules:** R 323.2101 et seq. and R 324.1501 et seq. of the Michigan Administrative Code.

### **324.501a Jurisdiction, rights, and responsibilities of Great Lakes states and provinces.**

Sec. 501a. The Great Lakes are a binational public treasure and are held in trust by the Great Lakes states and provinces. Management of the water resources of the Great Lakes and the Great Lakes basin is subject to the jurisdiction, rights, and responsibilities of the Great Lakes states and provinces. Effective management of the water resources of the Great Lakes requires the in-basin exercise of such jurisdiction, rights, and responsibilities in the interest of all the people of the Great Lakes basin.

**History:** Add. 2002, Act 148, Imd. Eff. Apr. 5, 2002.

**Compiler's note:** Enrolled House Bill No. 5118 was not signed by the Governor, but, having been presented to him at 3:44 p.m. on March 22, 2002, and not having been returned by him to the House of Representatives within the 14 days prescribed by Const 1963, art IV, sec 33, became law (2002 PA 148) on April 5, 2002, the Legislature having continued in session.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.502 Rules; powers of department; contracts for taking and storage of mineral products; disposition and use of money; drilling operations for taking oil or gas from lake bottomlands of Great Lakes; prohibition; compliance with applicable ordinances and statutes.**

Sec. 502. (1) The commission may promulgate rules, not inconsistent with law, governing its organization and procedure.

(2) The department may do 1 or more of the following:

(a) Promulgate and enforce reasonable rules concerning the use and occupancy of lands and property under its control in accordance with section 504.

(b) Provide and develop facilities for outdoor recreation.

(c) Conduct investigations it considers necessary for the proper administration of this part.

(d) Remove and dispose of forest products as required for the protection, reforestation, and proper development and conservation of the lands and property under the control of the department.

(e) Require the payment of a fee as provided by law for a daily permit or other authorization that allows the person to hunt and take waterfowl on a public hunting area managed and developed for waterfowl.

(3) Except as provided in subsection (4), the department may enter into contracts for the taking of coal, oil, gas, and other mineral products from state owned lands, upon a royalty basis or upon another basis, and upon the terms the department considers just and equitable subject to section 502a. This contract power includes authorization to enter into contracts for the storage of gas or other mineral products in or upon state owned lands, if the consent of the state agency having jurisdiction and control of the state owned land is first obtained. A contract permitted under this section for the taking of coal, oil, gas, or metallic mineral products, or for the storage of gas or other mineral products, is not valid unless the contract is approved by the state administrative board. Money received from a contract for the storage of gas or other mineral products in or upon state lands shall be transmitted to the state treasurer for deposit in the general fund of the state to be used for the purpose of defraying the expenses incurred in the administration of this act and other purposes provided by law. Other money received from a contract permitted under this subsection, except money received from lands acquired with money from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010, shall be transmitted to the state treasurer for deposit in the Michigan natural resources trust fund created in section 35 of article IX of the state constitution of 1963 and provided for in part 19. However, the money received from the payment of service charges by a person using areas managed for waterfowl shall be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 and used only for the purposes provided by law. Money received from bonuses, rentals, delayed rentals, royalties, and the direct sale of resources, including forest resources, from lands acquired with money from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 shall be credited to the Michigan game and fish protection trust fund established in section 41 of article IX of the state constitution of 1963 and provided for in part 437, except as otherwise provided by law.

(4) The department shall not enter into a contract that allows drilling operations beneath the lake bottomlands of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, for the exploration or production of oil or gas.

(5) This section does not permit a contract for the taking of gravel, sand, coal, oil, gas, or other metallic mineral products that does not comply with applicable local ordinances and state law.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 61, Imd. Eff. May 24, 1995;—Am. 1996, Act 272, Imd. Eff. June 12, 1996;—Am. 1998, Act 114, Imd. Eff. June 9, 1998;—Am. 2002, Act 148, Imd. Eff. Apr. 5, 2002;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enrolled House Bill No. 5118 was not signed by the Governor, but, having been presented to him at 3:44 p.m. on March 22, 2002, and not having been returned by him to the House of Representatives within the 14 days prescribed by Const 1963, art IV, sec 33, became law (2002 PA 148) on April 5, 2002, the Legislature having continued in session.

Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

**Administrative rules:** R 323.2101 et seq.; R 324.1501 et seq.; and R 324.14501 et seq. of the Michigan Administrative Code.

### **324.502a Designation of state land reserve; petition, recommendation, or motion; eligibility for commission consideration; public testimony; issuance of commission recommendation; offer and adoption of resolution by legislature; purchase, trade, or acquisition of other holdings.**

Sec. 502a. (1) Upon petition by a person, recommendation of the department, or its own motion, the commission shall place on its agenda at an upcoming meeting of the commission the question of designation of a state land reserve. The petition, recommendation, or motion shall include the land proposed for inclusion within the state land reserve and a rationale for its inclusion. A tract of land is eligible for commission consideration for designation as a state land reserve if it includes at least 640 contiguous acres of state owned

land and contains 1 or more of the following:

- (a) A critical dune as regulated under part 353.
- (b) A high-risk area regulated under part 323.
- (c) A wetland regulated under part 303.
- (d) An endangered species protected under part 365.
- (e) A wilderness area or natural area regulated under part 351.
- (f) A natural river regulated under part 305.
- (g) Any other significant surface or subsurface natural feature or area of environmental sensitivity.

(2) Prior to making its recommendation on the designation of a state land reserve, the commission shall receive public testimony on the issue. After considering the public testimony, the commission shall issue a written recommendation to the legislature on whether or not the commission believes a state land reserve should be designated. In making its recommendation, the commission shall consider the need for a buffer zone surrounding the land to eliminate the potential drainage of oil and gas. The commission may expand or restrict the land area proposed for the state land reserve. The commission shall include with the recommendation a rationale for its recommendation.

(3) Upon receipt of a recommendation from the commission under subsection (2), a member of the legislature may offer a resolution to create a state land reserve pursuant to section 5 of article X of the state constitution of 1963. The resolution is not required to conform to the recommendation of the commission. When considering this resolution, the legislature shall also consider the need for a buffer zone surrounding the land to eliminate the potential drainage of oil and gas.

(4) If the legislature adopts the resolution under subsection (3) by 2/3 of the members elected to and serving in each house, a state land reserve is designated. Pursuant to section 5 of article X of the state constitution of 1963, land within a state land reserve shall not be removed from the reserve, sold, leased, or otherwise disposed of except by a resolution of the legislature.

(5) Upon designation of a state land reserve under subsection (4), the department shall attempt to purchase, trade, or otherwise acquire any holdings within the contiguous area of the state land reserve that improve ownership patterns, including any severed mineral rights. The owner of an inholding described in this subdivision who offers that land or interest in that land for sale or lease, if that land transfer is subject to the state transfer tax, shall first offer that land or interest in land to the state and shall give the state a right of first refusal.

**History:** Add. 1998, Act 114, Imd. Eff. June 9, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

**324.503 Duties of department of natural resources; jurisdiction; outdoor recreation; destruction of timber; reforestation; pollution; protection of game and fish; gifts; acceptance of funds from federal government; purpose; use; granting concession; lease and sale of land; reservation of mineral rights; sale of economic share of royalty interests; definitions.**

Sec. 503. (1) The department shall protect and conserve the natural resources of this state; provide and develop facilities for outdoor recreation; prevent the destruction of timber and other forest growth by fire or otherwise; promote the reforestation of forestlands belonging to the state; prevent and guard against the pollution of lakes and streams within the state and enforce all laws provided for that purpose with all authority granted by law; and foster and encourage the protecting and propagation of game and fish. The department has the power and jurisdiction over the management, control, and disposition of all land under the public domain, except for those lands under the public domain that are managed by other state agencies to carry out their assigned duties and responsibilities. On behalf of the people of the state, the department may accept gifts and grants of land and other property and may buy, sell, exchange, or condemn land and other property, for any of the purposes contemplated by this part. The department may accept funds, money, or grants for development of salmon and steelhead trout fishing in this state from the government of the United States, or any of its departments or agencies, pursuant to the anadromous fish conservation act, 16 USC 757a to 757f, and may use this money in accordance with the terms and provisions of that act. However, the acceptance and use of federal funds does not commit state funds and does not place an obligation upon the legislature to continue the purposes for which the funds are made available.

(2) The department may lease lands owned or controlled by the department or may grant concessions on lands owned or controlled by the department to any person for any purpose that the department determines to be necessary to implement this part. In granting a concession, the department shall provide that each



concession is awarded at least every 7 years based on extension, renegotiation, or competitive bidding. However, if the department determines that a concession requires a capital investment in which reasonable financing or amortization necessitates a longer term, the department may grant a concession for up to a 15-year term. A concession granted under this subsection shall require, unless the department authorizes otherwise, that all buildings and equipment shall be removed at the end of the concession's term. Any lease entered into under this subsection shall limit the purposes for which the leased land is to be used and shall authorize the department to terminate the lease upon a finding that the land is being used for purposes other than those permitted in the lease. Unless otherwise provided by law, money received from a lease or a concession of tax reverted land shall be credited to the fund providing financial support for the management of the leased land. Money received from a lease of all other land shall be credited to the fund from which the land was purchased. However, money received from program-related leases on these lands shall be credited to the fund providing financial support for the management of the leased lands. For land managed by the forest management division of the department, that fund is either the forest development fund established pursuant to part 505 or the forest recreation account of the Michigan conservation and recreation legacy fund provided for in section 2005. For land managed by the wildlife or fisheries division of the department, that fund is the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

(3) When the department sells land, the deed by which the land is conveyed may reserve all mineral, coal, oil, and gas rights to the state only when the land is in production or is leased or permitted for production, or when the department determines that the land has unusual or sensitive environmental features or that it is in the best interest of this state to reserve those rights as determined by commission policy. However, the department shall not reserve the rights to sand, gravel, clay, or other nonmetallic minerals. When the department sells land that contains subsurface rights, the department shall include a deed restriction that restricts the subsurface rights from being severed from the surface rights in the future. If the landowner severs the subsurface rights from the surface rights, the subsurface rights revert to this state. The deed may reserve to the state the right of ingress and egress over and across land along watercourses and streams. Whenever an exchange of land is made, either with the United States government, a corporation, or an individual, for the purpose of consolidating the state forest reserves, the department may issue deeds without reserving to the state the mineral, coal, oil, and gas rights and the rights of ingress and egress. The department may sell the limestone, sand, gravel, or other nonmetallic minerals. However, the department shall not sell a mineral or nonmetallic mineral right if the sale would violate part 353, part 637, or any other provision of law. The department may sell all reserved mineral, coal, oil, and gas rights to such lands upon terms and conditions as the department considers proper and may sell oil and gas rights as provided in part 610. The owner of such lands as shown by the records shall be given priority in case the department authorizes any sale of such lands, and, unless the landowner waives such rights, the department shall not sell such rights to any other person. For the purpose of this section, mineral rights do not include rights to sand, gravel, clay, or other nonmetallic minerals.

(4) The department may enter into contracts for the sale of the economic share of royalty interests it holds in hydrocarbons produced from devonian or antrim shale qualifying for the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986. However, in entering into these contracts, the department shall assure that revenues to the natural resources trust fund under these contracts are not less than the revenues the natural resources trust fund would have received if the contracts were not entered into. The sale of the economic share of royalty interests under this subsection may occur under contractual terms and conditions considered appropriate by the department and as approved by the state administrative board. Funds received from the sale of the economic share of royalty interests under this subsection shall be transmitted to the state treasurer for deposit in the state treasury as follows:

(a) Net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, under this subsection shall be credited to the environmental protection fund created in section 503a.

(b) Proceeds related to the production of oil or gas from devonian or antrim shale shall be credited to the natural resources trust fund or other applicable fund as provided by law.

(5) As used in subsection (4):

(a) "Natural resources trust fund" means the Michigan natural resources trust fund established in section 35 of article IX of the state constitution of 1963 and provided for in section 1902.

(b) "Net proceeds" means the total receipts received from the sale of royalty interests under subsection (4) less costs related to the sale. Costs may include, but are not limited to, legal, financial advisory, geological or reserve studies, and accounting services.

(6) As used in this section:

(a) "Concession" means an agreement between the department and a person under terms and conditions as specified by the department to provide services or recreational opportunities for public use.

(b) "Lease" means a conveyance by the department to a person of a portion of the state's interest in land under specific terms and for valuable consideration, thereby granting to the lessee the possession of that portion conveyed during the period stipulated.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 133, Imd. Eff. Mar. 19, 1996;—Am. 1998, Act 117, Imd. Eff. June 9, 1998;—Am. 1998, Act 419, Imd. Eff. Dec. 29, 1998;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

**Administrative rules:** R 323.2101 et seq. and R 324.1501 et seq. of the Michigan Administrative Code.

### **324.503a Environmental protection fund.**

Sec. 503a. (1) The environmental protection fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the environmental protection fund. The state treasurer shall direct the investment of the environmental protection fund. The state treasurer shall credit to the environmental protection fund interest and earnings from fund investments.

(3) Money in the environmental protection fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) Money in the environmental protection fund shall be expended, upon appropriation, only for such purposes as are specifically provided by law.

**History:** Add. 1996, Act 133, Imd. Eff. Mar. 19, 1996.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.503b Divestment from terror act; compliance by state treasurer.**

Sec. 503b. The state treasurer shall comply with the divestment from terror act in making investments under this act.

**History:** Add. 2008, Act 236, Imd. Eff. July 17, 2008.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.504 Department of natural resources; rules for protection and preservation of lands and property; duties of department; report; applicability of subsections (2) and (3) to commercial forestland; certain rules prohibited; orders; violation as civil infraction; fine.**

Sec. 504. (1) The department shall promulgate rules to protect and preserve lands and other property under its control from depredation, damage, or destruction or wrongful or improper use or occupancy.

(2) Subject to subsection (4), the department shall do all of the following:

(a) Keep land under its control open to hunting unless the department determines that the land should be closed to hunting because of public safety, fish or wildlife management, or homeland security concerns or as otherwise required by law.

(b) Manage land under its control to support and promote hunting opportunities to the extent authorized by law.

(c) Manage land under its control to prevent any net decrease in the acreage of such land that is open to hunting.

(3) Subject to subsection (4), by April 1, 2010 and each year thereafter, the department shall submit to the legislature a report that includes all of the following:

(a) The location and acreage of land under its control previously open to hunting that the department closed to hunting during the 1-year period ending the preceding March 1, together with the reasons for the closure.

(b) The location and acreage of land under its control previously closed to hunting that the department opened to hunting during the 1-year period ending the preceding March 1 to compensate for land closed to hunting under subdivision (a).

(4) Subsections (2) and (3) do not apply to commercial forestland as defined in section 51101.

(5) This section does not authorize the department to promulgate a rule that applies to commercial fishing

except as otherwise provided by law.

(6) The department shall not promulgate or enforce a rule that prohibits an individual who is licensed or exempt from licensure under 1927 PA 372, MCL 28.421 to 28.435, from carrying a pistol in compliance with that act, whether concealed or otherwise, on property under the control of the department.

(7) The department shall issue orders necessary to implement rules promulgated under this section. These orders shall be effective upon posting.

(8) A person who violates a rule promulgated under this section or an order issued under this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 171, Imd. Eff. Apr. 18, 1996;—Am. 2004, Act 130, Imd. Eff. June 3, 2004;—Am. 2009, Act 47, Imd. Eff. June 18, 2009.

**Popular name:** Act 451

**Popular name:** NREPA

**Administrative rules:** R 299.291a et seq. and R 299.921 et seq. of the Michigan Administrative Code.

### **324.505 Federal fish stock and programs; application; listing of programs supplied to legislature.**

Sec. 505. The department, in pursuing the state's policy of propagating fish for the purpose of stocking the streams and lakes of the state, shall accept federal fish stock for such programs, and shall apply for all federal fish stock programs that do not commit the state to future expenditures.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.506 Availability of writings to public; report to governor and legislature.**

Sec. 506. (1) A writing prepared, owned, used, in the possession of, or retained by the department or the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Before January 16 of each year in which a regular session of the legislature is held, the department shall make to the governor and the legislature a report covering the operation of the department of natural resources for the preceding biennial period. The report, if ordered by the department of management and budget, shall be printed and distributed in the manner and to the persons as the board directs. The report shall be made available to the public as prescribed in subsection (1).

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.507 Declaration of necessity.**

Sec. 507. This part is declared to be immediately necessary for the preservation of the public health, safety, and welfare and the environment.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.508 Fees and rentals for photographic or publication products or services; disposition and use; limitation; unexpended fees and rentals.**

Sec. 508. The department may establish and collect fees and rentals for any photographic or publication products or services that the department provides. The fees and rentals shall be credited to a separate fund of the state treasury and shall be available for appropriation to the department of natural resources and used to provide the photographic or publication products or services. The fees and rentals shall not exceed the material costs to the department of providing the products or services. In addition, the expenditures made in a fiscal year to provide the photographic and publication products or services shall not exceed the amount appropriated for that purpose for that fiscal year, plus any amounts carried over from previous fiscal years, or the amount of fees and rentals actually received during that fiscal year, plus any amounts carried over from previous fiscal years, whichever is less. Any unexpended fees and rentals collected pursuant to this section, along with any excess collections from prior fiscal years, shall be carried over into subsequent fiscal years and shall be available for appropriation for the purposes described in this section.



**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.509 Permit for use of state parks; disposition of revenue from permit fees and concessions at state parks; use of fees for processing applications for use of state forests; creation of forest land user fund.**

Sec. 509. (1) The department may require that a person obtain a permit for the use of a state park. The department may establish and collect fees for permits to use state parks. The revenue realized by the department from permit fees and concessions at state parks shall be credited to a separate fund of the state treasury and shall be available for appropriation to the department of natural resources for improvement and maintenance of state parks.

(2) The department may establish and collect fees to cover the costs to the department for the processing of applications and for monitoring of permits for the use of state forests that require extensive review. The forest land user fund is created in the state treasury. Money received under this subsection shall be credited to the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money remaining in the fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal year. Money in the fund may be appropriated to the department to cover the costs of reviewing applications and monitoring of permits for the use of state forests.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 420, Imd. Eff. Dec. 29, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

**324.509a MacMullan conference center account; creation and establishment; deposits; purpose; annual report.**

Sec. 509a. There is hereby created and established under the jurisdiction and control of the department a revolving account to be known as the MacMullan conference center account. All of the fees and other revenues generated from the operation of the MacMullan conference center shall be deposited in the MacMullan conference center account. Appropriations shall be made from the account for the support of program operations and the maintenance and operation of the facility, and shall not exceed the estimated revenues for the fiscal year in which they are made, together with any unexpended balances from prior years. The department shall submit an annual report of operations and expenditures regarding the MacMullan conference center account to the appropriations committees of the senate and house of representatives and the house and senate fiscal agencies at the end of the fiscal year.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.509b MacMullan conference center; restrictions on availability.**

Sec. 509b. The MacMullan conference center shall be available only to the following:

- (a) The department.
- (b) Federal, state, and local government agencies.
- (c) Education institutions.
- (d) Nonprofit corporations or associations organized pursuant to the nonprofit corporation act, 1962 PA 162, MCL 450.2101 to 450.3192.
- (e) Community service clubs.
- (f) Groups of persons with disabilities.
- (g) Members of the legislature for purposes related to the business of the legislature.
- (h) Entities and organizations that wish to use the conference center to host an event that has a natural resources or environmental agenda.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

**324.510 Disposition of certain reimbursements and other money; disposition and use of aircraft fees; limitation.**

Sec. 510. (1) Money received by the department of natural resources for reimbursement of damages to

department of natural resources property, reimbursement of land recording fees, sale of farm animals from Maybury state park, reimbursement for utilities for the Michigan state exposition and fairgrounds, reproduction of the agenda of the commission or other meetings of the department, reimbursement for forest fire protection services provided to the federal government or other states, and money received from forfeited cash bonds, security bonds, and court ordered reimbursements may be credited to the accounts from which these disbursements were or are to be made.

(2) The department may establish and collect fees for use of aircraft and pilots of the department of natural resources. The aircraft fees collected shall be credited to a separate fund of the state treasury and shall be available for appropriation to the department of natural resources and used to pay all operating and maintenance costs of the aircraft, including depreciation and aircraft replacement, but shall not exceed the fee revenue collected for the fiscal year together with any unexpended balances of prior years.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.511 Fees for department of natural resources magazine, publications, and related materials; disposition and use of fees; retained earnings; disposition of unexpended fees and excess collections; annual allocation to magazine account; accounting records; report.**

Sec. 511. The department may establish and collect fees for the department of natural resources magazine, publications, and related materials. Fees collected shall be credited to a separate fund of the state treasury and shall be available for appropriation to the department of natural resources and used to pay all direct and indirect operating costs of the magazine and for the purchase of other related publications and materials. The retained earnings balance of the magazine at the end of the fiscal year shall not fall below the retained earnings balance at the end of the prior fiscal year. Any unexpended fees collected pursuant to this section, along with any excess collections from prior fiscal years, shall be carried over into subsequent fiscal years and shall be available for appropriation for the purposes described in this section. The magazine account shall receive an annual allocation of interest earned by the state treasurer's common cash fund on cash balances of the magazine in accordance with procedures established by the state treasurer. Accounting records of the magazine shall be maintained on an accrual basis in accordance with generally accepted accounting principles, including the establishment of separate asset, liability, and equity accounts for the magazine. On March 1 of each year, the department shall report to the appropriations committees of the house of representatives and senate and the house and senate fiscal agencies the status of the natural resources magazine program as of the end of the prior fiscal year.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.512 Film production located in state; authorization by director or commission to use property; exception; cooperation with Michigan film office; definitions.**

Sec. 512. (1) The director may authorize a person engaged in the production of a film in this state to use without charge property owned by or under the control of the department for the purpose of producing a film under terms and conditions established by the director. The economic and other benefits to this state of film production located in this state shall be considered to be the value received by this state in exchange for the use of property under this section.

(2) The director or the commission shall not authorize the use of property owned by or under the control of the department for the production of a film that includes obscene matter or an obscene performance or for a production for which records are required to be maintained with respect to any performer under 18 USC 2257.

(3) The department shall cooperate with the Michigan film office in providing the office with information about potential film locations owned by or under the control of the department and the use of property owned by or under the control of the department.

(4) As used in this section:

(a) "Film" means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or videotape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video,

digital animation, or an interactive website.

(b) "Michigan film office" means the Michigan film office created in section 29a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029a.

(c) "Obscene matter or an obscene performance" means matter described in 1984 PA 343, MCL 752.361 to 752.374.

**History:** Add. 2008, Act 82, Imd. Eff. Apr. 8, 2008.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.513 Gift certificates.**

Sec. 513. Beginning not later than March 1, 2009, the department shall offer to the public 1 or more gift certificates redeemable for at least all of the following:

- (a) Hunting and fishing license fees under part 435.
- (b) State park motor vehicle permit and camping fees under part 741.
- (c) Mooring fees under part 781.
- (d) Off-road vehicle license fees under part 811.
- (e) Snowmobile license fees under part 821.

**History:** Add. 2008, Act 293, Imd. Eff. Oct. 6, 2008.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 7**

### **FOREST AND MINERAL RESOURCE DEVELOPMENT**

### **324.701 "Fund" defined.**

Sec. 701. As used in this part, "fund" means the forest and mineral resource development fund created in section 703.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.702 Duties of department.**

Sec. 702. The department shall do all of the following:

- (a) Administer a grant and loan program pursuant to sections 704 and 705.
- (b) Provide advice and recommendations to the legislature, the governor, and executive departments in order to promote the development of the forestry and forest products industry and the mineral extraction and utilization industry in this state.
- (c) Develop programs and coordinate existing and proposed programs to encourage innovative and competitively viable economic development of forest and mineral related industry.
- (d) Stimulate and encourage the forestry and forest products industry and the mineral extraction and utilization industry through grants and loans made under this part.
- (e) Review existing laws and regulations pertaining to forestry and the mineral industry and develop proposals for new laws or changes in existing law to improve this state's forest and mineral resource development as considered appropriate by the department.
- (f) Promote and provide for educational programs for the general public and members of local government to increase awareness of the importance of the forestry and forest products industry and the mineral industry to this state.
- (g) Consult with representatives of science, industry, labor, government, and other groups and utilize the services of public and private organizations, including colleges and universities, as the department considers necessary or helpful.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.703 Forest and mineral resource development fund; creation; administration; expenditures; purpose; appropriations; grants and loans; repayments of principal; interest and earnings; appropriations, interest, and earnings to remain in fund.**

Sec. 703. (1) The forest and mineral resource development fund is created as a separate fund in the

department of treasury to be administered and expended by the department for the purpose of making grants and loans pursuant to sections 704 and 705.

(2) There shall be appropriated annually from the general fund of the state, or from any special revenue source that is dedicated to forest and mineral resource development or from funds made available by the private sector, a sufficient sum to carry out the requirements of this part. Of the money appropriated by the legislature, the department shall make grants and loans as provided in sections 704 and 705 in a manner that as nearly as practicable results in an even distribution of grants and loans to encourage the state's forestry and forest products industry and grants and loans to encourage the state's mineral industry.

(3) In addition to the appropriated funds, the fund shall include all repayments of principal and interest and earnings generated under a loan granted under this part.

(4) Appropriations made to the fund and interest and earnings generated by the fund do not lapse to the general fund at the end of the fiscal year for which an appropriation was made, but shall remain in the fund to be expended as provided in this part.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.704 Forest and mineral resource development grant and loan program; establishment; rules; publication of information about grants and loans; distribution of information and application forms; form and contents of application; projects eligible for grant or loan; matching funds; considerations in making grants and loans; determining rate of interest.**

Sec. 704. (1) The department shall establish a forest and mineral resource development grant and loan program. The department shall promulgate rules necessary to implement the grant and loan program provided in this part.

(2) The department shall annually publish information about grants and loans available under this part in a manner selected by the department as best calculated to give notice to persons likely to be interested in the grants or loans, or both.

(3) Information regarding grants and loans available under this part and application forms for grants and loans shall be distributed by the department upon request.

(4) An application for a grant or loan under this section shall be on a form provided by the department and shall contain information required by the department.

(5) The department may make a grant or a loan to a person as determined to be appropriate by the department for any of the following projects that pertain to new technologies, innovative technologies, or procedures, products, or marketing techniques, to encourage the state's forestry or forest products industry or the mineral extraction and utilization industry:

- (a) Market development projects.
- (b) Resource base information development projects.
- (c) Feasibility study projects.
- (d) Research projects.
- (e) Development projects.
- (f) Research and development projects.

(6) The department may require that matching funds be provided as a condition for making a grant or loan under this section.

(7) The department in making grants and loans under this section shall consider all of the following:

(a) The potential for the project, if funded, to assist the forest products industry or the mineral industry in this state.

(b) The potential for the project, if funded, to create jobs in the forest products industry or the mineral industry in this state.

(c) If the applicant's project proposes the development of a new technology or product, the likelihood that the technology or product would enhance the competitiveness of this state's forest products industry or mineral industry.

(d) If the applicant's project involves the development of a new technology or product, whether the applicant provides a feasibility study with results supportive of project initiation.

(e) The potential for the project to be applied or utilized by persons in this state other than the applicant.

(f) The ability of the applicant to contribute matching funds for the project.

(g) If the applicant's project involves research, the likelihood that the applicant may qualify for further research grants or loans or follow-up grants or loans from other sources.

(h) Other factors as considered appropriate by the department.

(8) In determining the rate of interest to be assessed on loans made under this part, the department shall select an interest rate that is below the average annual effective prime lending rate for commercial banks as reported by the federal reserve system.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.705 Reviewing and prioritizing application for grant or loan; report.**

Sec. 705. (1) An application for a grant or loan made under this part shall be reviewed and prioritized by the department each fiscal year.

(2) Not less than 60 days prior to the end of each fiscal year, the department shall report the following information regarding the grants or loans made under this part to the governor and the legislature:

(a) The name and address of each person to whom a grant or loan was issued during the reporting year.

(b) The nature of the project that received a grant or loan during the reporting year.

(c) The amount of money received by each person who received a grant or loan during the reporting year.

(d) The county in which the project is located.

(e) The number of new employment opportunities, if any, that resulted from grants or loans made during the reporting year.

(f) The number of new employment opportunities, if any, that are expected to result from grants or loans that are anticipated in the next reporting year.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 9**

### **JOINT ENVIRONMENTAL MANAGEMENT AUTHORITIES**

#### **324.901 Definitions.**

Sec. 901. As used in this part:

(a) "Articles" means the articles of incorporation of an authority.

(b) "Authority" means a joint city-state environmental management authority created pursuant to section 902.

(c) "Board" means the board of directors of the authority.

(d) "Solid waste" means solid waste as defined in part 115.

(e) "State agency" means either the department or the governing body of the state park that is participating in an authority.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.902 Environmental management authority; creation; powers; appointment, terms, and removal of members; quorum; compensation; business conducted at public meeting; writings; election of officers.**

Sec. 902. (1) The governing body of any city within whose corporate boundaries a state park comprises more than 75% of the land area and the governing body of any such state park or, if there is none, the department, may create an environmental management authority for that city. An authority may contract and be contracted with, sue and be sued, and take action in the courts of this state. An authority, once created, shall exercise its powers as an autonomous entity, independent of any state department.

(2) An authority shall be governed by a board of directors consisting of 5 voting members and 2 nonvoting ex officio members who are appointed as follows:

(a) One individual appointed by the state park governing body or the department if there is no qualifying state park.

(b) One individual appointed by the chair of the state park governing body or the department if there is no qualifying state park.

(c) One individual appointed by the governing body of the city.

(d) One individual appointed by the mayor of the city.

(e) One individual appointed by agreement of at least 3 of the 4 individuals appointed pursuant to



subdivisions (a), (b), (c), and (d).

(f) The director of the department of management and budget, or an employee of the department of management and budget who is designated by the director of the department of management and budget, shall serve as a nonvoting ex officio member.

(g) One member of the joint capital outlay subcommittee of the appropriations committees of the senate and house of representatives, appointed by the chair of that subcommittee, shall serve as a nonvoting ex officio member.

(3) Voting members of the board shall serve terms of 4 years. Vacancies shall be filled in the same manner as the original appointment for an unexpired term. Of the members first appointed, the members appointed by the chair of the state agency and the mayor of the city shall serve for 2 years, the members appointed by the state agency and the governing body of the city shall serve for 3 years, and the member appointed by agreement of the other members shall serve for 4 years. Ex officio nonvoting members do not have fixed terms of office.

(4) An individual appointed by the governing body of a city or by the mayor may be removed in the same manner as provided by the city's charter.

(5) A majority of the members of a board constitutes a quorum for the purpose of conducting business and exercising the powers of the authority. Official action may be taken by an authority upon the vote of a majority of the board members present, unless the bylaws of the authority require a larger number.

(6) Members of the board shall not receive compensation for services as members of an authority but are entitled to necessary expenses, including travel expenses, incurred in the discharge of their duties.

(7) The business that an authority may perform shall be conducted at a public meeting of the authority held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(8) A writing prepared, owned, or used by an authority in the performance of an official function shall be made available in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(9) At its first meeting, a board shall elect a chairperson and any other officers it considers necessary. The authority shall meet at least quarterly.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.903 Articles of incorporation; contents.**

Sec. 903. (1) A board shall draft and adopt articles of incorporation and bylaws for the administration of the authority.

(2) An authority's articles shall state the name of the authority; the name of the participating city and state agency; the purposes for which the authority is formed; the powers, duties, and limitations of the authority and its board; the manner in which participating local and state governmental units shall take part in the governance of the authority; the general method of amending the articles; and any other matters that the board considers advisable.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.904 Articles of incorporation; procedure for adoption.**

Sec. 904. (1) The articles of an authority shall be adopted and may be amended by an affirmative vote of a majority of the members serving on the governing body of the participating city and state agency.

(2) Before the articles or amendments to the articles are adopted, the articles or amendments to the articles shall be published by the clerk of the city at least once in a newspaper generally circulated within the participating city.

(3) The adoption of articles or amendments to the articles by the respective governing bodies shall be evidenced by an endorsement on the articles or amendments by the clerk or secretary of the governing bodies in a form substantially as follows:

“These articles of incorporation (or amendments to the articles of incorporation) were adopted by an affirmative vote of a majority of the members serving on the governing body of \_\_\_\_\_, \_\_\_\_\_ at a meeting duly held on the \_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_.”

(4) Upon adoption of the articles or amendments to the articles, a printed copy of the articles or the

amended articles shall be filed with the secretary of state, the clerk of the city, and the secretary of the state commission.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.905 Powers of authority subject to articles of incorporation.**

Sec. 905. (1) The articles may authorize an authority to propose standards, criteria, and regulations.

(2) To the extent authorized in the articles, an authority may plan, promote, finance, issue bonds for, acquire, improve, enlarge, extend, own, lease, construct, replace, or contract for public improvements and services, including, but not limited to, the following:

(a) Water and sewer public improvements and services.

(b) Solid waste collection, recycling, and disposal.

(c) Other public improvements relating to environmental matters that the city and the state agency in writing agree to assume.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.906 Powers of authority generally.**

Sec. 906. An authority may do 1 or more of the following:

(a) Acquire and hold, by purchase, lease, grant, gift, devise, land contract, installment purchase contract, bequest, or other legal means, real and personal property inside or outside the boundaries of the authority. The property may include franchises, easements, or rights-of-way on, under, or above any property. The authority may pay for the property, or pledge for the payment of the property, from revenue of the authority.

(b) Apply for and accept grants, loans, or contributions from the federal government or any of its agencies, this state, the city, or other public or private agencies to be used for any of the purposes of this part.

(c) Contract with the city for the provision of services of a type listed in section 905(2) for a period not exceeding 30 years. The service may be established or funded in conjunction with an existing service of a local governmental unit, and the provision of a service of a local governmental unit may be delegated to an authority. A charge specified in a contract is subject to increase by the authority if that increase is necessary to provide funds to meet the authority's obligations.

(d) Retain full-time employees to staff the authority and to implement the policies of the authority.

(e) Provide for and be responsible for the maintenance of all of the following for a public purpose, subject to the articles and bylaws of the authority:

(i) Potable water.

(ii) Sewage systems.

(iii) Solid waste management.

(iv) Other municipal functions delegated to it in writing by the respective governing bodies of the participating city and state agency.

(f) Assess and collect fees for its services and expenses.

(g) Receive revenue from any source as appropriated by the legislature or the governing body of the city.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.907 Dissolution of authority.**

Sec. 907. Upon the expiration of a term agreed by the incorporating units, the authority shall be dissolved unless the city and the state agency agree to extend the existence of the authority for an additional term of years. The authority may only be dissolved during a term upon the vote of a 2/3 majority of the governing bodies of both the city and the state agency. Upon dissolution, the assets of the authority become the property of the city.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 11**

### **GENERAL APPELLATE RIGHTS AND PUBLIC ACCESS TO GOVERNMENT**

### **324.1101 Review of decision.**

Sec. 1101. (1) If a person has legal standing to challenge a final decision of the department under this act regarding the issuance, denial, suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a permit or operating license, the commission, upon request of that person, shall review the decision and make the final agency decision. A preliminary, procedural, or intermediate decision of the department is reviewable by the commission only if the commission elects to grant a review. If a person is granted review by the commission under this section, the person is considered to have exhausted his or her administrative remedies with regard to that matter. The commission may utilize administrative law judges or hearing officers to conduct the review of decisions as contested case hearings and to issue proposals for decisions as provided by law or rule.

(2) In all instances, except those described in subsection (1), if a person has legal standing to challenge a final decision of the department under this act, that person may seek direct review by the courts as provided by law. Direct review by the courts is available to that person as an alternative to any administrative remedy that is provided in this act. A preliminary, procedural, or intermediate action or ruling of the department is not immediately reviewable, except that the court may grant leave for review of a preliminary, procedural, or intermediate action or ruling if the court determines that review of the final decision would not provide an adequate remedy. If a person is granted direct review by the courts under this section, the person is considered to have exhausted his or her administrative remedies with regard to that matter.

(3) If the court does not review a decision of the department brought before the court as provided in this section, the person with legal standing retains any administrative appeal rights that are otherwise provided by law.

(4) If the court reviews a preliminary, procedural, or intermediate decision of the department brought before the court as provided in this section, the person with legal standing retains the right to judicial review of the final decision of the department as provided by law.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1102 Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 1102. A petition under section 4307, 4709, or 11906, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 187, Eff. Mar. 23, 1999.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 13 PERMITS**

### **324.1301 Definitions.**

Sec. 1301. As used in this part:

(a) "Application period" means the period beginning when an application for a permit is received by the state and ending when the application is considered to be administratively complete under section 1305 and any applicable fee has been paid.

(b) "Department" means the department, agency, or officer authorized by this act to approve or deny an application for a particular permit.

(c) "Director" means the director of the state department authorized under this act to approve or deny an application for a particular permit or the director's designee.

(d) "Permit" means a permit or operating license required by any of the following sections or by rules promulgated thereunder, or, in the case of section 9112, by an ordinance or resolution adopted thereunder:

(i) Section 3104, floodplain alteration permit.

(ii) Section 3503, permit for use of water in mining iron ore.

(iii) Section 4105, sewerage system construction permit.

(iv) Section 6516, vehicle testing license.

(v) Section 6521, motor vehicle fleet testing permit.

- (vi) Section 8310, restricted use pesticide dealer license.
- (vii) Section 8310a, agricultural pesticide dealer license.
- (viii) Section 8504, license to manufacture or distribute fertilizer.
- (ix) Section 9112, local soil erosion and sedimentation control permit.
- (x) Section 11509, solid waste disposal area construction permit.
- (xi) Section 11512, solid waste disposal area operating license.
- (xii) Section 11542, municipal solid waste incinerator ash landfill operating license amendment.
- (xiii) Section 11702, septage waste servicing license or septage waste vehicle license.
- (xiv) Section 11709, septage waste site permit.
- (xv) Section 30104, inland lakes and streams project permit.
- (xvi) Section 30304, state permit for dredging, filling, or other activity in wetland. Permit includes an authorization for a specific project to proceed under a general permit issued under section 30312.
- (xvii) Section 31509, dam construction, repair, removal permit.
- (xviii) Section 32312, flood risk, high risk, or environmental area permit.
- (xix) Section 32503, permit for dredging and filling bottomland.
- (xx) Section 35304, department permit for critical dune area use.
- (xxi) Section 36505, endangered species permit.
- (xxii) Section 41702, game bird hunting preserve license.
- (xxiii) Section 42101, dog training area permit.
- (xxiv) Section 42501, fur dealer's license.
- (xxv) Section 42702, game dealer's license.
- (xxvi) Section 44513, charter boat operating permit under reciprocal agreement.
- (xxvii) Section 44517, boat livery operating permit.
- (xxviii) Section 45503, permit to take frogs for scientific use.
- (xxix) Section 45902, game fish propagation license.
- (xxx) Section 45906, game fish import license.
- (xxxi) Section 61525, oil or gas well drilling permit.
- (xxxii) Section 62509, brine, storage, or waste disposal well drilling or conversion permit or test well drilling permit.
- (xxxiii) Section 63103a, metallic mineral mining permit.
- (xxxiv) Section 63514 or 63525, surface coal mining and reclamation permit or revision of the permit during the term of the permit, respectively.
- (xxxv) Section 63704, sand dune mining permit.
- (xxxvi) Section 72108, use permits for Michigan trailway.
- (xxxvii) Section 76109, sunken aircraft or watercraft abandoned property recovery permit.
- (xxxviii) Section 76504, Mackinac Island motor vehicle and land use permits.
- (xxxix) Section 80159, buoy or beacon permit.
- (e) "Processing deadline" means the last day of the processing period.
- (f) "Processing period" means the following time period after the close of the application period, for the following permit, as applicable:
  - (i) Twenty days for a permit under section 61525 or 62509.
  - (ii) Thirty days for a permit under section 9112.
  - (iii) Thirty days after the department consults with the underwater salvage and preserve committee created under section 76103, for a permit under section 76109.
  - (iv) Sixty days, for a permit under section 30104 for a minor project as established by rule under section 30105(7) or for a permit under section 32312.
  - (v) Sixty days or, if a hearing is held, 90 days for a permit under section 35304.
  - (vi) Sixty days or, if a hearing is held, 120 days for a permit under section 30104, other than a permit for a minor project as established by rule under section 30105(7), or for a permit under section 31509.
  - (vii) Ninety days for a permit under section 11512, a revision of a surface coal mining and reclamation permit during the term of the permit under section 63525, or a permit under section 72108.
  - (viii) Ninety days or, if a hearing is held, 150 days for a permit under section 3104, 30304, or 32503 or an authorization for a specific project to proceed under a general permit issued under section 30312.
  - (ix) One hundred and twenty days for a permit under section 11509, 11542, 63103a, 63514, or 63704.
  - (x) One hundred fifty days for a permit under section 36505. However, if a site inspection or federal approval is required, the 150-day period is tolled pending completion of the inspection or receipt of the federal approval.
  - (xi) For any other permit, 150 days or, if a hearing is held, 90 days after the hearing, whichever is later.

**History:** Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2008, Act 18, Imd. Eff. Feb. 29, 2008;—Am. 2009, Act 120, Eff. Nov. 6, 2009.

**Compiler's note:** Enacting section 1 of Act 120 of 2009 provides:

"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:

"(a) \$4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and \$4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a.

"(b) \$2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1303 Permit application; format; documents.**

Sec. 1303. (1) An application for a permit shall be submitted to the department in a format to be developed by the department, except as provided in section 30307 with respect to a state wetland permit.

(2) The department shall, upon request and without charge, provide a person a copy of all of the following:

(a) A blank permit application form.

(b) In concise form, any instructions necessary to complete the application.

(c) A complete, yet concise, explanation of the permit review process.

(3) The department shall post the documents described in subsection (2) on its website.

**History:** Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1305 Receipt of permit application; notice of incomplete application; time period.**

Sec. 1305. (1) Effective 30 days after the state receives an application for a permit, the application shall be considered to be administratively complete unless the department proceeds as provided under subsection (2).

(2) If, before the expiration of the 30-day period under subsection (1), the department notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 30-day period under subsection (1) is tolled until the applicant submits to the department the specified information or fee amount due. The notice shall be given in writing or by electronic notification.

**History:** Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1307 Approval or denial of permit application; extension of processing period; explanation of reasons for permit denial; failure of department to satisfy requirements of subsection (1); effect.**

Sec. 1307. (1) By the processing deadline, the department shall approve or deny an application for a permit. If requested by the permit applicant, the department may extend the processing period for a permit by not more than 20%. Approval of an application for a permit may be granted with conditions or modifications necessary to achieve compliance with the part or parts of this act under which the permit is issued.

(2) A denial of an application for a permit shall include an explanation of the reasons for denial and make specific reference to provisions of this act or rules promulgated under this act providing the basis for denial.

(3) Except for permits described in subsection (4), if the department fails to satisfy the requirements of subsection (1) with respect to an application for a permit, the department shall pay the applicant an amount equal to 15% of the greater of the following, as applicable:

(a) The amount of the application fee for that permit.

(b) If an assessment or other fee is charged on an annual or other periodic basis by the department to a person holding the permit for which the application was submitted, the amount of the first periodic charge of that assessment or other fee for that permit.

(4) If the department fails to satisfy the requirements of subsection (1) with respect to a permit under section 11509, 11512, or 30307, the application shall be considered to be approved and the department shall be considered to have made any determination required for approval.

(5) The failure of the department to satisfy the requirements of subsection (1) or the fact that the department is required to make a payment under subsection (3) or is considered to have approved a permit



under subsection (4) shall not be used by the department as the basis for discriminating against the applicant. If the department is required to make a payment under subsection (3), the application shall be processed in sequence with other applications for the same type of permit, based on the date on which the processing period began, unless the director determines on an application-by-application basis that the public interest is best served by processing in a different order.

(6) If the department fails to satisfy the requirements of subsection (1), the director shall notify the appropriations committees of the senate and house of representatives of the failure. The notification shall be in writing and shall include both of the following:

(a) An explanation of the reason for the failure.

(b) A statement of the amount the department was required to pay the applicant under subsection (3) or a statement that the department was required to consider the application to be approved under subsection (4), as applicable.

**History:** Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1309 Submissions of applications for more than 1 type of permit.**

Sec. 1309. If a person submits applications for more than 1 type of permit for a particular development or project, the department or departments shall process the applications in a coordinated fashion to the extent feasible given procedural requirements applicable to individual permits and, at the request of an applicant, appoint a primary contact person to assist in communications with the department or departments.

**History:** Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1311 Report; information.**

Sec. 1311. The director of the department shall submit a report by December 1, 2005 and each year thereafter to the standing committees and appropriations subcommittees of the senate and house of representatives with primary responsibility for issues under the jurisdiction of that department. The department shall post the current report on its website. The report shall include all of the following information for each type of permit for the preceding fiscal year:

(a) The number of applications for permits the department received.

(b) The number of applications approved, the number of applications approved by the processing deadline, the number of applications approved after the processing deadline, and the average time for the department to determine administrative completeness and to approve or disapprove applications.

(c) The number of applications denied, the number of applications denied by the processing deadline, and the number of applications denied after the processing deadline.

(d) The number of applications approved or denied after the processing deadline that, based on the director's determination of the public interest, were not processed in sequence as otherwise required by section 1307(5).

(e) The number of applications that were not administratively complete when received.

(f) The amount of money refunded and discounts granted under section 1307.

(g) The number of applications processed as provided in section 1309.

**History:** Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 15 ENFORCEMENT**

### **324.1501 Conservation officers as peace officers; powers, privileges, prerogatives, and immunities.**

Sec. 1501. Conservation officers appointed by the department and trained and certified pursuant to the Michigan law enforcement officers training council act of 1965, Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Michigan Compiled Laws, are peace officers, and except as otherwise provided by law, are vested with all the powers, privileges, prerogatives, and immunities conferred upon peace officers as provided in this act, in Act No. 109 of the Public Acts of 1986, being sections 300.21 to 300.22 of the Michigan Compiled Laws, and in the general laws of this state.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1502 Service and execution of criminal process; fees.**

Sec. 1502. Except as otherwise provided by law, conservation officers appointed by the department have the same power to serve criminal process and to require aid in executing criminal process as sheriffs, and are entitled to the same fees as sheriffs in performing those duties under this act, under Act No. 109 of the Public Acts of 1986, being sections 300.21 to 300.22 of the Michigan Compiled Laws, and under the general laws of this state.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 16**

### **ENFORCEMENT OF LAWS FOR PROTECTION OF WILD BIRDS, WILD ANIMALS, AND FISH**

### **324.1601 Duties of department and appointed officers.**

Sec. 1601. The department and any officer appointed by the department shall do all of the following:

(a) Enforce the statutes and laws of this state for the protection, propagation, or preservation of wild birds, wild animals, and fish.

(b) Enforce all other laws of this state that pertain to the powers and duties of the department or the commission.

(c) Bring or cause to be brought or prosecute or cause to be prosecuted actions and proceedings in the name of the people of this state for the purpose of punishing any person for the violation of statutes or laws described in this section.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1602 Department or officer; prosecution; search without warrant; private property; definition; common carrier not liable; issuance of warrant; seizures; probable cause.**

Sec. 1602. (1) The department, or an officer appointed by the department, may file a complaint and commence proceedings against any person for a violation of any of the laws or statutes described in section 1601, without the sanction of the prosecuting attorney of the county in which the proceedings are commenced. In such a case, the officer is not obliged to furnish security for costs. The department, or an officer appointed by the department, may appear for the people in any court of competent jurisdiction in any cases for violation of any of the statutes or laws described in section 1601, may prosecute the cases in the same manner and with the same authority as the prosecuting attorney of any county in which the proceedings are commenced, and may sign vouchers for the payment of jurors' or witnesses' fees in those cases in the same manner and with the same authority as prosecuting attorneys in criminal cases. Whenever an officer appointed by the department has probable cause to believe that any of the statutes or laws mentioned in section 1601 have been or are being violated by any particular person, the officer has the power to search, without warrant, any boat, conveyance, vehicle, automobile, fish box, fish basket, game bag, game coat, or any other receptacle or place, except dwellings or dwelling houses, or within the curtilage of any dwelling house, in which nets, hunting or fishing apparatuses or appliances, wild birds, wild animals, or fish may be possessed, kept, or carried by the person, and an officer appointed by the department may enter into or upon any private or public property for that purpose or for the purpose of patrolling, investigating, or examining when he or she has probable cause for believing that any of the statutes or laws described in section 1601 have been or are being violated on that property. The term "private property" as used in this part does not include dwellings or dwelling houses or that which is within the curtilage of any dwelling house. An officer appointed by the department shall at any and all times seize and take possession of any and all nets, hunting or fishing apparatuses or appliances, or other property, wild birds, wild animals, or fish, or any part or parts thereof, which have been caught, taken, killed, shipped, or had in possession or under control, at a time, in a manner, or for a purpose, contrary to any of the statutes or laws described in section 1601, and the seizure may be made without a warrant. A common carrier is not responsible for damages or otherwise to any owner, shipper, or consignee by reason of any such seizure. When a complaint is made on oath to any magistrate authorized to issue warrants in criminal cases that any wild birds, wild animals, or fish, any part or parts of wild birds, wild

animals, or fish, or any nets, hunting or fishing apparatuses or appliances, or other property have been or are being killed, taken, caught, had in possession or under control, or shipped, contrary to the statutes or laws described in section 1601, and that the complainant believes the property to be stored, kept, or concealed in any particular house or place, the magistrate, if he or she is satisfied that there is probable cause for the belief, shall issue a warrant to search for the property. The warrant shall be directed to the department, or an officer appointed by the department, or to any other peace officer. All wild birds, wild animals, fish, nets, boats, fishing or hunting appliances or apparatuses, or automobiles or other property of any kind seized by an officer shall be turned over to the department to be held by the department subject to the order of the court as provided in this part.

(2) For the purposes of this part, “probable cause” or “probable cause to believe” is present on the part of a peace officer if there are facts that would induce any fair-minded person of average intelligence and judgment to believe that a law or statute had been violated or was being violated contrary to any of the statutes or laws described in section 1601.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1603 Confiscation of seized property; jurisdiction; venue.**

Sec. 1603. (1) The following courts have jurisdiction to determine whether seized property shall be confiscated as provided in section 1604:

(a) The district court, if the property is seized within this state, other than in a city having a municipal court or in a village served by a municipal court, and if the property is not appraised by the officer seizing the property at more than \$25,000.00 in value.

(b) A municipal court, if the property is seized in a city having a municipal court or in a village served by a municipal court and if the property is not appraised by the officer seizing the property at more than \$1,500.00 in value or \$3,000.00 in value if the city in which the municipal court is located has increased the jurisdictional amount under section 22 of the Michigan uniform municipal court act, 1956 PA 5, MCL 730.522.

(c) The circuit court, if the property is seized within this state and if the property exceeds the value specified in subdivision (a) or (b) as appraised by the officer seizing the property.

(2) If the circuit court has jurisdiction under subsection (1), the proceeding shall be commenced in the county in which the property is seized.

(3) If the district court has jurisdiction under subsection (1), venue for a proceeding shall be as follows:

(a) In the county in which the property is seized, if the property is seized in a district of the first class.

(b) In the district in which the property is seized, if the property is seized in a district of the second or third class.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1999, Act 13, Eff. June 1, 1999.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1604 Complaint; filing; contents; order to show cause; service; notice; hearing; condemnation and confiscation; sale or other disposal; disposition of proceeds; signing property release; return of property.**

Sec. 1604. (1) The officer seizing the property shall file a verified complaint in the court having jurisdiction and venue over the seizure of the property pursuant to section 1603. The complaint shall set forth the kind of property seized, the time and place of the seizure, the reasons for the seizure, and a demand for the property's condemnation and confiscation. Upon the filing of the complaint, an order shall be issued requiring the owner to show cause why the property should not be confiscated. The substance of the complaint shall be stated in the order. The order to show cause shall fix the time for service of the order and for the hearing on the proposed condemnation and confiscation.

(2) The order to show cause shall be served on the owner of the property as soon as possible, but not less than 7 days before the complaint is to be heard. The court, for cause shown, may hear the complaint on shorter notice. If the owner is not known or cannot be found, notice may be served in 1 or more of the following ways:

(a) By posting a copy of the order in 3 public places for 3 consecutive weeks in the county in which the seizure was made and by sending a copy of the order by registered mail to the last known address of the owner. If the last known address of the owner is not known, mailing a copy of the order is not required.

(b) By publishing a copy of the order in a newspaper once each week for 3 consecutive weeks in the county where the seizure was made and by sending a copy of the order by registered mail to the last known address of the owner. If the last known address of the owner is not known, mailing a copy of the order is not required.

(c) In such a manner as the court directs.

(3) Upon the hearing of the complaint, if the court determines that the property mentioned in the petition was caught, killed, possessed, shipped, or used contrary to law, either by the owner or by a person lawfully in possession of the property under an agreement with the owner, an order may be made condemning and confiscating the property and directing its sale or other disposal by the department, the proceeds from which shall be paid into the state treasury and credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010. If the owner or person lawfully in possession of the property seized signs a property release, a court proceeding is not necessary. At the hearing, if the court determines that the property was not caught, killed, possessed, shipped, or used contrary to law, the court shall order the department to return the property immediately to its owner.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1605 Review or certiorari; procedure; bond.**

Sec. 1605. The proceedings for the condemnation and confiscation of any property under this part are subject to review or certiorari as provided in this part. A writ of certiorari may be issued within 10 days after final judgment and determination in any condemnation proceeding for the purpose of reviewing any error in the proceeding. Notice of the certiorari shall be served upon the department within 10 days after the date of issue, in the same manner as notice is required to be given of certiorari for reviewing judgments rendered by a justice of the peace, and the writ shall be issued and served and bond given and approved in the same manner as is required for reviewing judgments by justices of the peace.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1606 Department and conservation officer or peace officer; powers and duties; fees; park and recreation officers; enforcement of rules, orders, and laws; powers, privileges, and immunities; arrest powers; issuance of civil infraction citation; appearances; "minor offense" defined.**

Sec. 1606. (1) The department and conservation officers appointed by the department are peace officers vested with all the powers, privileges, prerogatives, and immunities conferred upon peace officers by the general laws of this state; have the same power to serve criminal process as sheriffs; have the same right as sheriffs to require aid in executing process; and are entitled to the same fees as sheriffs in performing those duties.

(2) The department may commission park and recreation officers to enforce, on property regulated under part 741 or 781, rules promulgated by the department and orders issued by the department that are authorized in those rules, including, but not limited to, rules promulgated or orders issued under section 504, and any laws of this state specified in those rules as enforceable by commissioned park and recreation officers. In performing those enforcement activities, commissioned park and recreation officers are vested with the powers, privileges, prerogatives, and immunities conferred upon peace officers under the laws of this state. However, a park and recreation officer enforcing rules, orders, or laws described in this subsection on property regulated under part 781 may arrest an individual only for a minor offense committed in the officer's presence and shall issue an appearance ticket as provided in subsection (6).

(3) In addition to the limited arrest authority granted in subsection (2), on property regulated under part 741, a commissioned park and recreation officer may arrest an individual without a warrant if 1 or more of the following circumstances exist:

(a) In the presence of the park and recreation officer, the individual commits an assault or an assault and battery in violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a.

(b) The park and recreation officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the individual has committed it.

(c) The park and recreation officer has received affirmative written or verbal notice from a law enforcement officer or agency that a peace officer possesses a warrant for the individual's arrest.

(d) The person violates section 625(1), (3), or (6) or 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.626.

(e) The person violates part 741, 811, or 821 or section 80198b.

(f) The person violates section 11(7) or 19 of the personal watercraft safety act, 1998 PA 116, MCL 281.1411 and 281.1419.

(4) In addition to the limited arrest authority granted in subsection (2), on property regulated under part 781, a commissioned park and recreation officer may arrest an individual without a warrant for a minor offense listed in subsection (3) committed in the officer's presence and shall issue an appearance ticket as provided in subsection (6).

(5) A commissioned park and recreation officer under subsection (2) may issue a civil infraction citation to an individual who violates section 626b or 627 of the Michigan vehicle code, 1949 PA 300, MCL 257.626b and 257.627.

(6) If a conservation officer or a park and recreation officer commissioned under subsection (2) arrests a person without warrant for a minor offense committed in the officer's presence, instead of immediately bringing the person for arraignment by the court having jurisdiction, the officer may issue to and serve upon the person an appearance ticket as authorized by sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g. However, if a park and recreation officer commissioned under subsection (2) arrests a person without a warrant for a minor offense committed on property regulated under part 781 in the officer's presence, the park and recreation officer shall issue and serve upon the person such an appearance ticket.

(7) An appearance pursuant to an appearance ticket may be made in person, by representation, or by mail. If appearance is made by representation or mail, a district judge or a municipal judge may accept a plea of guilty and payment of a fine and costs on or before the definite court date indicated on the appearance ticket, or may accept a plea of not guilty for purposes of arraignment, both with the same effect as though the person personally appeared before the court. If appearance is made by representation or mail, a district court magistrate may accept a plea of guilty upon an appearance ticket and payment of a fine and costs on or before the definite court date indicated on the appearance ticket for those offenses within the magistrate's jurisdiction, as prescribed by section 8511 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8511, or may accept a plea of not guilty for purposes of arraignment, if authorized to do so by the judge of the district court district, with the same effect as though the person personally appeared before the court. The court, by giving not less than 5 days' notice of the date of appearance, may require appearance in person at the place designated in the appearance ticket.

(8) This section does not prevent the execution of a warrant for the arrest of the person as in other cases of misdemeanors if necessary.

(9) If a person fails to appear, the court, in addition to the fine assessed if the person is found guilty for the offense committed, may add to the fine and costs levied against the person additional costs incurred in compelling the appearance of the person, which additional costs shall be returned to the general fund of the unit of government incurring the costs.

(10) As used in this section, "minor offense" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2000, Act 414, Eff. Mar. 28, 2001.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1607 Volunteer conservation officers.**

Sec. 1607. (1) The department may appoint persons to function as volunteer conservation officers. A volunteer conservation officer shall be appointed to assist a conservation officer in the performance of the conservation officer's duties. While a volunteer conservation officer is assisting a conservation officer, the volunteer conservation officer has the same immunity from civil liability as a conservation officer, and shall be treated in the same manner as an officer or employee under section 8 of Act No. 170 of the Public Acts of 1964, being section 691.1408 of the Michigan Compiled Laws. The volunteer conservation officer shall not carry a firearm while functioning as a volunteer conservation officer.

(2) As used in this section, "volunteer" means a person who provides his or her service as a conservation officer without pay.

(3) To qualify as a volunteer conservation officer, a person shall meet all of the following qualifications:



(a) Have no felony convictions. In determining whether the person has a felony conviction, the person shall present documentation to the department that a criminal record check through the law enforcement information network has been conducted by a law enforcement agency.

(b) Have completed 10 hours of training conducted by the law enforcement division of the department.

(4) Upon compliance with subsection (3) and upon recommendation by the department, a person may be appointed as a volunteer conservation officer. An appointment shall be valid for 3 years. At the completion of the 3 years, the volunteer conservation officer shall comply with the requirements of this section in order to be reappointed as a volunteer conservation officer.

(5) A volunteer conservation officer's appointment is valid only if the volunteer conservation officer is on assignment with, and in the company of, a conservation officer.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1608 Obstructing, resisting, or opposing officers as misdemeanor; penalty.**

Sec. 1608. A person who knowingly or willfully obstructs, resists, or opposes the department, an officer appointed by the department, or any other peace officer in the performance of the duties and execution of the powers prescribed in this part or in any statute or law, in making an arrest or search as provided in this part, or in serving or attempting to serve or execute any process or warrant issued by lawful authority, or who obstructs, resists, opposes, assaults, beats, or wounds the department, any officer appointed by the department, or any other peace officer while the department or officer is lawfully making an arrest or search, lawfully serving or attempting to serve or execute any such process or warrant, or lawfully executing or attempting to execute or lawfully performing or attempting to perform any of the powers and duties provided for in the statutes or laws described in section 1601, is guilty of a misdemeanor, punishable as provided in section 479 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.479 of the Michigan Compiled Laws. In making an arrest or search as provided in this part, or in serving or attempting to serve or execute any process or warrant, the department, any officer appointed by the department, or any other peace officer shall identify himself or herself by uniform, badge, insignia, or official credentials.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1609 Judgment fee.**

Sec. 1609. In all prosecutions for violation of the law for the protection of game and fish, the sentencing court shall assess, as costs, the sum of \$10.00, to be known as the judgment fee. When collected, the judgment fee shall be paid into the state treasury to the credit of the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1615 Wildlife violator compact.**

Sec. 1615. The governor of this state may enter into a compact on behalf of this state with any of the other states of the United States legally joining in the compact in the form substantially as follows:

#### **ARTICLE I**

#### **FINDINGS, DECLARATION OF POLICY, AND PURPOSE**

(a) The participating states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, state laws, state regulations, state ordinances, and state administrative rules relating to the management of such resources.

(3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources.

(4) Wildlife resources are valuable without regard to political boundaries; therefore, every person should

be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.

(7) In most instances, a person who is cited for a wildlife violation in a state other than his home state:

(i) Is required to post collateral or a bond to secure appearance for a trial at a later date; or

(ii) Is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices set forth in paragraph (7) of this article is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on his way after receiving the citation, could return to his home state and disregard his duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in his home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on his way after agreeing or being instructed to comply with the terms of the citation.

(10) The practices described in paragraph (7) of this article cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made.

(11) The enforcement practices described in paragraph (7) of this article consume an undue amount of law enforcement time.

(b) It is the policy of the participating states to:

(1) Promote compliance with the state statutes, state laws, state ordinances, state regulations, and state administrative rules relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat such suspension as if it had occurred in their state.

(3) Allow a violator, except as provided in paragraph (b) of article III, to accept a wildlife citation and, without delay, proceed on his way, whether or not a resident of the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat convictions recorded against its residents, which convictions occurred in a participating state, as though they had occurred in the home state.

(6) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to:

(1) Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in paragraph (b) of this article in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

## ARTICLE II

### DEFINITIONS

As used in this compact, unless the context requires otherwise:

(a) "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation which contains an order requiring the person to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.

(d) "Conviction" means a conviction, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, state law, state regulation, state ordinance, or state administrative rule, and such conviction shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having

committed any such offense, the payment of a penalty assessment, a plea of nolo contendere and the imposition of a deferred or suspended sentence by the court.

(e) "Court" means a court of law, including magistrate's court and the justice of the peace court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the participating state which issues a wildlife citation to the violator.

(h) "License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by state statute, state law, state regulation, state ordinance, or state administrative rule of a participating state.

(i) "Licensing authority" means the department or division within each participating state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Participating state" means any state which enacts legislation to become a member of this wildlife compact.

(k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.

(l) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.

(m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by state statute, state law, state regulation, state ordinance, or state administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on state law.

(p) "Wildlife law" means any state statute, state law, state regulation, state ordinance, or state administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

(q) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

(r) "Wildlife violation" means any cited violation of a state statute, state law, state regulation, state ordinance, or state administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

### ARTICLE III

#### PROCEDURES FOR ISSUING STATE

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require such person to post collateral to secure appearance, subject to the exceptions noted in paragraph (b) of this article, if the officer receives the recognizance of such person that he will comply with the terms of the citation.

(b) Personal recognizance is acceptable (1) if not prohibited by state law or the compact manual and (2) if the violator provides adequate proof of identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance pursuant to paragraph (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and with the content as prescribed in the compact manual.

### ARTICLE IV

#### PROCEDURE FOR HOME STATE

(a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards shall be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though

it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

#### ARTICLE V

##### RECIPROCAL RECOGNITION OF SUSPENSION

(a) All participating states shall recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and would have been the basis for a mandatory suspension of license privileges in their state.

(b) Each participating state shall communicate suspension information to other participating states in the form and with the content as contained in the compact manual.

#### ARTICLE VI

##### APPLICABILITY OF OTHER LAWS

(a) Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

#### ARTICLE VII

##### COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of 1 representative from each of the participating states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be subject to removal in accordance with the laws of the state he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate shall not be entitled to serve unless written notification of his identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to 1 vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the participating states are represented.

(c) The board shall elect annually from its membership a chairman and vice-chairman.

(d) The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize and dispose of the donations and grants.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in a compact manual.

#### ARTICLE VIII

##### ENTRY INTO COMPACT AND WITHDRAWAL

(a) This compact shall become effective at such time as it is adopted in a substantially similar form by 2 or more states.

(b) (1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairman of the board.

(2) The resolution shall substantially be in the form and content as provided in the compact manual and shall include the following:

(i) A citation of the authority from which the state is empowered to become a party to this compact;

(ii) An agreement of compliance with the terms and provisions of this compact; and

(iii) An agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.

(3) The effective date of entry shall be specified by the applying state but shall not be less than 60 days after notice has been given, (a) by the chairman of the board of the compact administrators or (b) by the secretariat of the board to each participating state, that the resolution from the applying state has been

received.

(c) A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal shall not become effective until 90 days after the notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal of any state shall affect the validity of this compact as to the remaining participating states.

#### ARTICLE IX

##### AMENDMENTS TO THE COMPACT

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and shall be initiated by one or more participating states.

(b) Adoption of an amendment shall require endorsement by all participating states and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a participating state to respond to the compact chairman within 120 days after receipt of a proposed amendment shall constitute endorsement thereof.

#### ARTICLE X

##### CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of this compact shall not be affected thereby. If this compact is held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

#### ARTICLE XI

##### TITLE

This compact shall be known as the “wildlife violator compact”.

**History:** Add. 2004, Act 235, Imd. Eff. July 21, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

#### PART 17

##### MICHIGAN ENVIRONMENTAL PROTECTION ACT

#### **324.1701 Actions for declaratory and equitable relief for environmental protection; parties; standards; judicial action.**

Sec. 1701. (1) The attorney general or any person may maintain an action in the circuit court having jurisdiction where the alleged violation occurred or is likely to occur for declaratory and equitable relief against any person for the protection of the air, water, and other natural resources and the public trust in these resources from pollution, impairment, or destruction.

(2) In granting relief provided by subsection (1), if there is a standard for pollution or for an antipollution device or procedure, fixed by rule or otherwise, by the state or an instrumentality, agency, or political subdivision of the state, the court may:

(a) Determine the validity, applicability, and reasonableness of the standard.

(b) If a court finds a standard to be deficient, direct the adoption of a standard approved and specified by the court.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.1702 Payment of costs or judgment; posting surety bond or cash; amount.**

Sec. 1702. If the court has reasonable grounds to doubt the solvency of the plaintiff or the plaintiff's ability to pay any cost or judgment that might be rendered against him or her in an action brought under this part, the court may order the plaintiff to post a surety bond or cash in an amount of not more than \$500.00.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.1703 Rebuttal evidence; affirmative defense; burden of proof; referee; costs.**

Sec. 1703. (1) When the plaintiff in the action has made a prima facie showing that the conduct of the



defendant has polluted, impaired, or destroyed or is likely to pollute, impair, or destroy the air, water, or other natural resources or the public trust in these resources, the defendant may rebut the prima facie showing by the submission of evidence to the contrary. The defendant may also show, by way of an affirmative defense, that there is no feasible and prudent alternative to defendant's conduct and that his or her conduct is consistent with the promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment, or destruction. Except as to the affirmative defense, the principles of burden of proof and weight of the evidence generally applicable in civil actions in the circuit courts apply to actions brought under this part.

(2) The court may appoint a master or referee, who shall be a disinterested person and technically qualified, to take testimony and make a record and a report of his or her findings to the court in the action.

(3) Costs may be apportioned to the parties if the interests of justice require.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1704 Granting of relief; administrative, licensing, or other proceedings; adjudication; judicial review.**

Sec. 1704. (1) The court may grant temporary and permanent equitable relief or may impose conditions on the defendant that are required to protect the air, water, and other natural resources or the public trust in these resources from pollution, impairment, or destruction.

(2) If administrative, licensing, or other proceedings are required or available to determine the legality of the defendant's conduct, the court may direct the parties to seek relief in such proceedings. Proceedings described in this subsection shall be conducted in accordance with and subject to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. If the court directs parties to seek relief as provided in this section, the court may grant temporary equitable relief if necessary for the protection of the air, water, and other natural resources or the public trust in these resources from pollution, impairment, or destruction. In addition, the court retains jurisdiction of the action pending completion of the action to determine whether adequate protection from pollution, impairment, or destruction is afforded.

(3) Upon completion of proceedings described in this section, the court shall adjudicate the impact of the defendant's conduct on the air, water, or other natural resources, and on the public trust in these resources, in accordance with this part. In adjudicating an action, the court may order that additional evidence be taken to the extent necessary to protect the rights recognized in this part.

(4) If judicial review of an administrative, licensing, or other proceeding is available, notwithstanding the contrary provisions of Act No. 306 of the Public Acts of 1969 pertaining to judicial review, the court originally taking jurisdiction shall maintain jurisdiction for purposes of judicial review.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1705 Administrative, licensing, or other proceedings; intervenors; determinations; doctrines applicable.**

Sec. 1705. (1) If administrative, licensing, or other proceedings and judicial review of such proceedings are available by law, the agency or the court may permit the attorney general or any other person to intervene as a party on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct that has, or is likely to have, the effect of polluting, impairing, or destroying the air, water, or other natural resources or the public trust in these resources.

(2) In administrative, licensing, or other proceedings, and in any judicial review of such a proceeding, the alleged pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in these resources, shall be determined, and conduct shall not be authorized or approved that has or is likely to have such an effect if there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare.

(3) The doctrines of collateral estoppel and res judicata may be applied by the court to prevent multiplicity of suits.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1706 Part as supplement.**

Sec. 1706. This part is supplementary to existing administrative and regulatory procedures provided by law.

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 18**

### **UNIFORM TRANSBOUNDARY POLLUTION RECIPROCAL ACCESS**

### **324.1801 “Reciprocating jurisdiction” defined.**

Sec. 1801. As used in this part:

(a) “Reciprocating jurisdiction” means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States of America that has enacted a law identical to this part or provides access to its courts and administrative agencies that is substantially equivalent to the access provided in this part.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1802 Action or other proceeding for injury caused by pollution.**

Sec. 1802. An action or other proceeding for injury or threatened injury to property or person in a reciprocating jurisdiction caused by pollution originating, or that may originate, in this state may be brought in this state.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1803 Injury caused by pollution in reciprocating jurisdiction; rights to relief.**

Sec. 1803. A person who suffers, or is threatened with, injury to his or her person or property in a reciprocating jurisdiction caused by pollution originating, or that may originate, in this state has the same rights to relief with respect to the injury or threatened injury, and may enforce those rights in this state as if the injury or threatened injury occurred in this state.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1804 Applicable law.**

Sec. 1804. The law to be applied in an action or other proceeding brought pursuant to this part, including what constitutes “pollution,” is the law of this state, excluding choice of law rules.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1805 Superior rights not accorded.**

Sec. 1805. This part does not accord a person injured or threatened with injury in a jurisdiction outside of this state any rights superior to those that the person would have if injured or threatened with injury in this state.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1806 Additional right provided.**

Sec. 1806. Any right provided in this part is in addition to and not in derogation of any other rights.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1807 Defense of sovereign immunity.**

Sec. 1807. The defense of sovereign immunity is applicable in any action or other proceeding brought pursuant to this part only to the extent that it would apply to a person injured or threatened with injury in this state.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1808 Application and construction of part.**

Sec. 1808. This part shall be applied and construed to carry out its general purpose to make uniform the law with respect to the subject of this part among jurisdictions enacting it.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 19**

## **NATURAL RESOURCES TRUST FUND**

### **324.1901 Definitions.**

Sec. 1901. As used in this part:

(a) "Board" means the Michigan natural resources trust fund board established in section 1905.

(b) "Economic development revenue bonds (oil and gas revenues), series 1982A, dated December 1, 1982" includes bonds refunding these bonds, provided that any refunding bonds mature no later than September 1, 1994.

(c) "Local unit of government" means a county, city, township, village, school district, the Huron-Clinton metropolitan authority, or any authority composed of counties, cities, townships, villages, or school districts, or any combination thereof, which authority is legally constituted to provide public recreation.

(d) "Total expenditures" means the amounts actually expended from the trust fund as authorized by section 1903(1) and (2).

(e) "Trust fund" means the Michigan natural resources trust fund established in section 35 of article IX of the state constitution of 1963.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1902 Michigan natural resources trust fund; establishment; contents; transfer of amount to Michigan state parks endowment fund; receipts; investment; report on accounting of revenues and expenditures; "Michigan state parks endowment fund" defined.**

Sec. 1902. (1) In accordance with section 35 of article IX of the state constitution of 1963, the Michigan natural resources trust fund is established in the state treasury. The trust fund shall consist of all bonuses, rentals, delayed rentals, and royalties collected or reserved by the state under provisions of leases for the extraction of nonrenewable resources from state owned lands. However, the trust fund shall not include bonuses, rentals, delayed rentals, and royalties collected or reserved by the state from the following sources:

(a) State owned lands acquired with money appropriated from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

(b) State owned lands acquired with money appropriated from the subfund account created by former section 4 of former 1976 PA 204.

(c) State owned lands acquired with money appropriated from related federal funds made available to the state under 16 USC 669 to 669i, commonly known as the federal aid in wildlife restoration act, or 16 USC 777 to 777l, commonly known as the federal aid in fish restoration act.

(d) Money received by the state from net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 USC 29, as provided for in section 503.

(2) Notwithstanding subsection (1), until the trust fund reaches an accumulated principal of \$500,000,000.00, \$10,000,000.00 of the revenues from bonuses, rentals, delayed rentals, and royalties described in this section, but not including money received by the state from net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 USC 29, as

provided for in section 503, otherwise dedicated to the trust fund that are received by the trust fund each state fiscal year shall be transferred to the state treasurer for deposit into the Michigan state parks endowment fund. However, until the trust fund reaches an accumulated principal of \$500,000,000.00, in any state fiscal year, not more than 50% of the total revenues from bonuses, rentals, delayed rentals, and royalties described in this section, but not including net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 USC 29, as provided in section 503, otherwise dedicated to the trust fund that are received by the trust fund each state fiscal year shall be transferred to the Michigan state parks endowment fund. To implement this subsection, until the trust fund reaches an accumulated principal of \$500,000,000.00, the department shall transfer 50% of the money received by the trust fund each month pursuant to subsection (1) to the state treasurer for deposit into the Michigan state parks endowment fund. The department shall make this transfer on the last day of each month or as soon as practicable thereafter. However, not more than a total of \$10,000,000.00 shall be transferred in any state fiscal year pursuant to this subsection.

(3) In addition to the contents of the trust fund described in subsection (1), the trust fund shall consist of money transferred to the trust fund pursuant to section 1909.

(4) The trust fund may receive appropriations, money, or other things of value.

(5) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140/.

(6) The department shall annually prepare a report containing an accounting of revenues and expenditures from the trust fund. This report shall identify the interest and earnings of the trust fund from the previous year, the investment performance of the trust fund during the previous year, and the total amount of appropriations from the trust fund during the previous year. This report shall be provided to the senate and house of representatives appropriations committees and the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment.

(7) As used in this section, "Michigan state parks endowment fund" means the Michigan state parks endowment fund established in section 35a of article IX of the state constitution of 1963 and provided for in section 74119.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1996, Act 134, Imd. Eff. Mar. 19, 1996;—Am. 2002, Act 52, Eff. Sept. 21, 2002;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.1903 Expenditures.**

Sec. 1903. (1) Subject to the limitations of this part and of section 35 of article IX of the state constitution of 1963, the interest and earnings of the trust fund in any 1 state fiscal year may be expended in subsequent state fiscal years only for the following purposes:

(a) The acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or its scenic beauty.

(b) The development of public recreation facilities.

(c) The administration of the fund, including payments in lieu of taxes on state owned land purchased through the trust fund.

(2) In addition to the money described in subsection (1), 33-1/3% of the money, exclusive of interest and earnings, received by the trust fund in any state fiscal year may be expended in subsequent state fiscal years for the purposes described in subsection (1). However, the authorization for the expenditure of money provided in this subsection does not apply after the state fiscal year in which the total amount of money in the trust fund, exclusive of interest and earnings and amounts authorized for expenditure under this section, exceeds \$500,000,000.00.

(3) An expenditure from the trust fund may be made in the form of a grant to a local unit of government, subject to the following conditions:

(a) The grant is used for the purposes described in subsection (1) and meets the requirements of either subdivision (b) or (c).

(b) A grant for the purposes described in subsection (1)(a) is matched by the local unit of government or public authority with at least 25% of the total cost of the project.

(c) A grant for the purposes described in subsection (1)(b) is matched by the local unit of government with

25% or more of the total cost of the project.

(4) Not less than 25% of the total amounts made available for expenditure from the trust fund from any state fiscal year shall be expended for acquisition of land and rights in land, and not more than 25% of the total amounts made available for expenditure from the trust fund from any state fiscal year shall be expended for development of public recreation facilities.

(5) If property that was acquired with money from the trust fund is subsequently sold or transferred by the state to a nongovernmental entity, the state shall forward to the state treasurer for deposit into the trust fund an amount of money equal to the following:

(a) If the property was acquired solely with trust fund money, the greatest of the following:

(i) The net proceeds of the sale.

(ii) The fair market value of the property at the time of the sale or transfer.

(iii) The amount of money that was expended from the trust fund to acquire the property.

(b) If the property was acquired with a combination of trust fund money and other restricted funding sources governed by federal or state law, an amount equal to the percentage of the funds contributed by the trust fund for the acquisition of the property multiplied by the greatest of subdivision (a)(i), (ii), or (iii).

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2002, Act 52, Eff. Sept. 21, 2002.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.1904 Limitation on amount accumulated in trust fund; deposit and distribution of amount.**

Sec. 1904. The amount accumulated in the trust fund shall not exceed \$500,000,000.00, exclusive of interest and earnings and amounts authorized for expenditure under this part. Any amount of money that would be a part of the trust fund but for the limitation stated in this section shall be deposited in the Michigan state parks endowment fund created in section 74119, until the Michigan state parks endowment fund reaches an accumulated principal of \$800,000,000.00. After the Michigan state parks endowment fund reaches an accumulated principal of \$800,000,000.00, any money that would be part of the Michigan state parks endowment fund but for this limitation shall be distributed as provided by law.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2002, Act 52, Eff. Sept. 21, 2002.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.1905 Michigan natural resources trust fund board; establishment; powers and duties of transferred agency; cooperation, aid, offices, and equipment; appointment and terms of members; removal; vacancies; expenses; compensation.**

Sec. 1905. (1) The Michigan natural resources trust fund board is established within the department. The board shall have the powers and duties of an agency transferred under a type I transfer pursuant to section 3 of the executive organization act of 1965, Act No. 380 of the Public Acts of 1965, being section 16.103 of the Michigan Compiled Laws. The board shall be administered under the supervision department and the department shall offer its cooperation and aid to the board and shall provide suitable offices and equipment for the board.

(2) The board shall consist of 5 members. The members shall include the director or a member of the commission as determined by the commission, and 4 residents of the state to be appointed by the governor with the advice and consent of the senate.

(3) The terms of the appointive members shall be 4 years, except that of those first appointed, 1 shall be appointed for 1 year, 1 shall be appointed for 2 years, 1 shall be appointed for 3 years, and 1 shall be appointed for 4 years.

(4) The appointive members may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office.

(5) Vacancies on the board shall be filled for the unexpired term in the same manner as the original appointments.

(6) The board may incur expenses necessary to carry out its powers and duties under this part and shall compensate its members for actual expenses incurred in carrying out their official duties.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA



**324.1906 Board; election of chairperson; administrative procedures; conducting business at public meeting; notice; meetings of board; availability of writings to public; reports.**

Sec. 1906. (1) The board shall elect a chairperson and establish its administrative procedures. The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The board shall meet not less than bimonthly and shall record its proceedings. A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Before January 16 of each year, the board shall report to the governor and to the legislature detailing the operations of the board for the preceding 1-year period. The board shall also make special reports as requested by the governor or the legislature.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.1907 List of lands, rights in land, and public recreation facilities to be acquired or developed; estimates of total costs; guidelines; legislative approval.**

Sec. 1907. (1) The board shall determine which lands and rights in land within the state should be acquired and which public recreation facilities should be developed with money from the trust fund and shall submit to the legislature in January of each year a list of those lands and rights in land and those public recreation facilities that the board has determined should be acquired or developed with trust fund money, compiled in order of priority. In preparing the list under this subsection, the board shall give particular consideration to the acquisition of land and rights in land for recreational trails that intersect the downtown areas of cities and villages.

(2) This list shall be accompanied by estimates of total costs for the proposed acquisitions and developments.

(3) The board shall supply with each list a statement of the guidelines used in listing and assigning the priority of these proposed acquisitions and developments.

(4) The legislature shall approve by law the lands and rights in land and the public recreation facilities to be acquired or developed each year with money from the trust fund.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2008, Act 229, Imd. Eff. July 17, 2008.

**Popular name:** Act 451

**Popular name:** NREPA

**324.1907a Project status; report.**

Sec. 1907a. If within 2 years after a parcel of property that is approved for acquisition or development by the legislature has not been acquired or developed in the manner determined by the board and is not open for public use, the board shall report to the standing committees of the senate and the house of representatives with jurisdiction over issues related to natural resources and the environment on the status of the project and the reason why the property has not been purchased or developed in the manner determined by the board.

**History:** Add. 2002, Act 52, Eff. Sept. 21, 2002.

**Popular name:** Act 451

**Popular name:** NREPA

**324.1908 Adopting decisions of state recreational land acquisition trust fund board of trustees; completion of projects; validity and expenditure of appropriations; deposit and appropriation of unexpended funds; appropriation of funds available under former law; deposit of interest and earnings on unexpended money.**

Sec. 1908. (1) Beginning on October 1, 1985, the board shall adopt as its own any decision made by the state recreational land acquisition trust fund board of trustees under the Kammer recreational land trust fund act of 1976, former Act No. 204 of the Public Acts of 1976, and shall administer to completion any project pending under that act.

(2) Appropriations made pursuant to former Act No. 204 of the Public Acts of 1976 shall remain valid after October 1, 1985 and may be expended until the projects approved through the appropriations are

complete. Any funds appropriated pursuant to former Act No. 204 of the Public Acts of 1976 but unexpended after completion of the projects funded under that act shall be deposited in the trust fund and may be appropriated as natural resources trust funds.

(3) Funds available for appropriation under former Act No. 204 of the Public Acts of 1976 as of October 1, 1985, but not appropriated as of that date, may be appropriated by the legislature under the terms and conditions of that act. Any funds appropriated as provided in this subsection but unexpended after completion of the projects for which the money was appropriated shall be deposited in the trust fund and may be appropriated as natural resources trust funds.

(4) The interest and earnings on money appropriated pursuant to former Act No. 204 of the Public Acts of 1976 or subsection (3) but not expended shall be deposited in the trust fund.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.1909 Duties of state treasurer.**

Sec. 1909. On October 1, 1985, the state treasurer shall do the following:

(a) Transfer to the game and fish protection fund created in part 435 any money in the subfund account created by former section 4 of the Kammer recreational land trust fund act of 1976, former Act No. 204 of the Public Acts of 1976.

(b) Transfer to the trust fund any money remaining in the state recreational land acquisition trust fund created in the Kammer recreational land trust fund act of 1976, former Act No. 204 of the Public Acts of 1976, after the transfer required by subdivision (a) is accomplished.

(c) Transfer to the trust fund any money or other assets in the heritage trust fund created in the heritage trust fund act of 1982, former Act No. 327 of the Public Acts of 1982.

(d) Transfer from the general fund to the trust fund an amount of money equal to all the money received by the general fund between December 22, 1984, the date on which section 35 of article IX became part of the state constitution of 1963, and October 1, 1985, the effective date of former Act No. 101 of the Public Acts of 1985, from bonuses, rentals, delayed rentals, and royalties collected or reserved by the state under provisions of leases for the extraction of nonrenewable resources from state owned lands, except money from bonuses, rentals, delayed rentals, and royalties excluded from the trust fund under 1902(1).

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.1910 Transfer of writings or documents by department of natural resources and department of treasury.**

Sec. 1910. (1) On October 1, 1985, the department shall transfer any writing or document prepared, owned, used, in the possession of, or retained by the state recreational land acquisition trust fund board of trustees under former Act No. 204 of the Public Acts of 1976 to the board.

(2) On October 1, 1985, the department of treasury shall transfer any writing or document prepared, owned, used, in the possession of, or retained by the heritage trust fund board of trustees under former Act No. 327 of the Public Acts of 1982 to the board or the bondholder protection board, as appropriate to the function of each board.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **PART 20**

#### **MICHIGAN CONSERVATION AND RECREATION LEGACY FUND**

#### **324.2001 Definitions.**

Sec. 2001. As used in this part:

(a) "Forest recreation account" means the forest recreation account of the legacy fund provided for in section 2005.

(b) "Game and fish protection account" means the game and fish protection account of the legacy fund provided for in section 2010.

(c) "Legacy fund" means the Michigan conservation and recreation legacy fund established in section 40 of article IX of the state constitution of 1963 and provided for in section 2002.

(d) "Off-road vehicle account" means the off-road vehicle account of the legacy fund provided for in section 2015.

(e) "Recreation improvement account" means the recreation improvement account of the legacy fund provided for in section 2020.

(f) "Snowmobile account" means the snowmobile account of the legacy fund provided for in section 2025.

(g) "State park improvement account" means the state park improvement account of the legacy fund provided for in section 2030.

(h) "Waterways account" means the waterways account of the legacy fund provided for in section 2035.

**History:** Add. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2002 Michigan conservation and recreation legacy fund.**

Sec. 2002. (1) In accordance with section 40 of article IX of the state constitution of 1963, the Michigan conservation and recreation legacy fund is established in the state treasury.

(2) The state treasurer shall direct the investment of the legacy fund. The state treasurer shall establish within the legacy fund restricted accounts as authorized by this part. Interest and earnings from each account shall be credited to that account. The state treasurer may accept gifts, grants, bequests, or assets from any source for deposit into a particular account or subaccount.

**History:** Add. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2005 Forest recreation account.**

Sec. 2005. (1) The forest recreation account is established as an account within the legacy fund.

(2) The forest recreation account shall consist of both of the following:

(a) All money in the forest recreation fund, formerly created in section 83104, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the forest recreation account.

(b) Revenue from the following sources:

(i) Revenue derived from concessions, leases, contracts, and fees from recreational activities on state forestlands.

(ii) Other revenues as authorized by law.

(3) Money in the forest recreation account shall be expended, upon appropriation, only as provided in part 831 and for the administration of the forest recreation account.

(4) Money in the forest recreation account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the forest recreation account.

**History:** Add. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2010 Game and fish protection account.**

Sec. 2010. (1) The game and fish protection account is established as an account within the legacy fund.

(2) The game and fish protection account shall consist of both of the following:

(a) All money in the game and fish protection fund, formerly created in section 43553, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the game and fish protection account.

(b) Revenue from the following sources:

(i) Revenue derived from hunting and fishing licenses, passbooks, permits, fees, concessions, leases, contracts, and activities.

- (ii) Damages paid for the illegal taking of game and fish.
- (iii) Revenue derived from fees, licenses, and permits related to game, game areas, and game fish.
- (iv) Other revenues as authorized by law.

(3) Money in the game and fish protection account shall be expended, upon appropriation, only as provided in part 435 and for the administration of the game and fish protection account, which may include payments in lieu of taxes on state owned land purchased through the game and fish protection account or through the former game and fish protection fund.

(4) Money in the game and fish protection account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the game and fish protection account.

**History:** Add. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2015 Off-road vehicle account.**

Sec. 2015. (1) The off-road vehicle account is established as an account within the legacy fund.

(2) The off-road vehicle account shall consist of both of the following:

(a) All money in the trail improvement fund, formerly created in section 81117, and the safety education fund, formerly created in section 81118, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the off-road vehicle account.

(b) Revenue deriving from either of the following sources:

- (i) Revenue from fees imposed upon the use or registration of off-road vehicles.
- (ii) Other revenues as authorized by law.

(3) Money in the off-road vehicle account shall be expended, upon appropriation, only as provided in part 811 and for the administration of the off-road vehicle account.

(4) Money in the off-road vehicle account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the off-road vehicle account.

**History:** Add. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2020 Recreation improvement account.**

Sec. 2020. (1) The recreation improvement account is established as an account within the legacy fund.

(2) The recreation improvement account shall consist of both of the following:

(a) All money in the recreation improvement fund, formerly created in section 71105, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the recreation improvement account.

(b) Revenue from the following sources:

- (i) Two percent of the gasoline sold in this state for consumption in internal combustion engines.
- (ii) Other revenues as provided by law.

(3) Money in the recreation improvement account shall be used only as provided for in part 711 and for the administration of the recreation improvement account.

(4) Money in the recreation improvement account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the recreation improvement account.

**History:** Add. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2025 Snowmobile account.**

Sec. 2025. (1) The snowmobile account is established as an account within the legacy fund.

(2) The snowmobile account shall consist of both of the following:

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(a) All money in the recreational snowmobile trail improvement fund, formerly created in section 82110, and the snowmobile registration fee fund, formerly created in section 82111, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the snowmobile account.

(b) Revenue deriving from the following sources:

(i) Revenue from fees imposed for the registration or use of snowmobiles.

(ii) Revenues derived from the use of snowmobile trails.

(iii) Transfers from the recreation improvement account.

(iv) Other revenues as authorized by law.

(3) Money in the snowmobile account shall be expended, upon appropriation, only as provided in part 821 and for the administration of the snowmobile account, which may include payments in lieu of taxes on state owned land purchased through the snowmobile account or the former snowmobile trail improvement fund.

(4) Money in the snowmobile account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the snowmobile account.

**History:** Add. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2030 State park improvement account.**

Sec. 2030. (1) The state park improvement account is established as an account within the legacy fund.

(2) The state park improvement account shall consist of both of the following:

(a) All money in the state park improvement fund, formerly created in section 74108, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the state park improvement account.

(b) Revenue from the following sources:

(i) Revenue derived from concessions, leases, contracts, fees, and permits from activities in state parks and recreation areas.

(ii) Unless otherwise provided by law, damages paid for illegal activities in state parks and recreation areas.

(iii) Other revenues as authorized by law.

(3) Money in the state park improvement account shall be expended, upon appropriation, only as provided in part 741 and for the administration of the state park improvement account.

(4) Money in the state park improvement account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the state park improvement account.

**History:** Add. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2035 Waterways account.**

Sec. 2035. (1) The waterways account is established as an account within the legacy fund.

(2) The waterways account shall consist of both of the following:

(a) All money in the Michigan state waterways fund, formerly created in section 78110, the Michigan harbor development fund, formerly created in section 78110, and the marine safety fund, formerly created in section 80115, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the waterways account.

(b) Revenue from the following sources:

(i) All revenue generated from watercraft registration fees assessed on the ownership or operation of watercraft in the state, of which not less than 49% shall be provided for law enforcement and education.

(ii) All revenues derived from fees charged for the moorage of watercraft at state-operated mooring facilities.

(iii) All revenues derived from fees charged for the use of state-operated public access sites.

(iv) Transfers from the recreation improvement account.



(v) All tax revenue derived from the sale of diesel fuel in this state that is used to generate power for the operation or propulsion of vessels on the waterways of this state.

(vi) Other revenues as authorized by law.

(3) Money in the waterways account shall be expended, upon appropriation, only as provided in parts 781, 791, and 801 and for the administration of the waterways account, which may include payments in lieu of taxes on state owned lands purchased through the waterways account or through the former Michigan state waterways fund.

**History:** Add. 2004, Act 587, Eff. Dec. 23, 2006.

**Compiler's note:** Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

**Popular name:** Act 451

**Popular name:** NREPA

## PART 21 GENERAL REAL ESTATE POWERS

### SUBPART 1 SALE OF STATE LANDS FOR PUBLIC PURPOSES

#### **324.2101 State lands; sale or transfer for public purpose; transfer of jurisdiction to other state agencies; reverter clause.**

Sec. 2101. (1) The department may sell sites to school districts and churches and sell lands for public purposes to public educational institutions; to the United States; and to governmental units of the state and to agencies thereof from tax reverted state lands under the control of the department, at a price fixed by a formula determined by the state tax commission. The department may transfer jurisdiction of tax reverted state lands for public purposes to any department, board, or commission of the state. The application for the purchase or transfer of tax reverted state lands shall be made by the proper officers of a school district, church, public educational institution, the United States, governmental unit, agency, department, board, or commission upon forms prepared and furnished by the department for that purpose.

(2) The department may sell tax reverted lands to any agency described in subsection (1), and the transfer of the lands is not subject to a reverter clause. If a conveyance or transfer of lands is made to a governmental unit without a reverter clause, the department may convey or transfer the lands at an appraisal value as determined by the state tax commission or at a nominal fee that includes any amount paid by the department for maintaining the lands in a condition that is protective of the public health and safety. If lands are conveyed or transferred for a nominal fee and are subsequently sold by the governmental unit for a valuable consideration, the proceeds from such a sale, after deducting the fee and any amount paid by the local governmental units for maintaining the lands in a condition that is protective of the public health and safety, shall be accounted for to the state, county, township, and school district in which the lands are situated pro rata according to their several interests in the lands arising from the nonpayment of taxes and special assessments on the lands as the interest appears in the offices of the state treasurer or county, city, or village treasurers.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2102 Conveyance of tax reverted land to public agency without monetary consideration; reverter.**

Sec. 2102. Notwithstanding section 2101, the department may convey tax reverted land to a public agency described in section 2101 without monetary consideration but subject to a reverter to this state upon termination of the use of the land for which the conveyance was approved by the department or upon any use of the land other than the use for which the conveyance was approved.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2102a Sale or transfer of trail or railway; retention of rail interest and easement.**

Sec. 2102a. If the state sells or transfers land containing a Michigan railway established under part 721, an

off-road vehicle trail established under part 811, or a snowmobile trail established under part 821, the state shall retain an easement for the continued use of the trail or trailway. If the trail or trailway at issue is subject to an interest by which the trail or trailway could be transformed into or reactivated as a railroad, then the sale or transfer of the trail or trailway is subject to the rail interest and any easement retained by the state on the trail or trailway is also subject to the rail interest.

**History:** Add. 1998, Act 17, Imd. Eff. Mar. 9, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

## SUBPART 2 DELINQUENT TAXES ON PART-PAID LANDS

### **324.2103 Unpaid tax list; lands patented after assessment; preparation; supervisors to reassess; collection; return.**

Sec. 2103. (1) On October 1 of each year, the department shall prepare lists showing the descriptions of lands upon which taxes have been assessed for the current year while the lands were part-paid, but which had been patented by the state, and upon which taxes have not been paid, and shall forward the lists to the supervisor of the township where the lands are located.

(2) The supervisor of the township receiving a list described in subsection (1) shall reassess the taxes reported in the list for the same land.

(3) The township treasurer shall collect and return the taxes in the same manner as provided for the collection and return of other taxes.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## SUBPART 3 EXCHANGE OF STATE LANDS

### **324.2104 Exchange of lands; authorization; refund of application fee.**

Sec. 2104. (1) Any of the lands under the control of the department, the title to which is in this state and which may be sold and conveyed or are a part of the state lands, as well as lands later acquired by this state, or any part or portion of those lands, may be exchanged for lands of equal area or approximately equal value belonging to the United States or owned by private individuals if in the opinion of the department it is in the interest of the state to do so.

(2) If the department charges an application fee for a proposed sale of land under this section and the state land proposed for sale is sold to another party within 3 years after the date a completed application is received by the department, the department shall refund the application fee in full to the applicant if the applicant has informed the department of his or her current address.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1998, Act 28, Imd. Eff. Mar. 18, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2105 Exchange of lands with United States; description; maintenance; conveyance; validity.**

Sec. 2105. If the department determines that it is in the best interests of the state to relinquish or convey to the United States under the laws of the United States any part or portion of the lands described in section 2104 in exchange for other lands of equal area or approximately equal value to be selected by the department from the unappropriated public lands in this state that belong to the United States and that may be relinquished or conveyed to the state by the United States under the laws of the United States, the department shall maintain a description of the lands belonging to the state that are to be relinquished or conveyed to the United States, and, upon making arrangements with the proper authorities of the United States, the department shall execute the proper conveyance to the United States of the lands to be relinquished or conveyed. This conveyance shall be void if the lands of an equal area or approximately equal value are not relinquished or conveyed by the United States to the state in lieu of the lands and in accordance with selections made by the department.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.2106 Exchange of lands with private individuals; description; maintenance; conveyance by individual; title; certification by attorney general; conveyance by state.**

Sec. 2106. If the department determines that it is in the best interests of the state to exchange any of the lands mentioned in section 2104 for lands of an equal area or of approximately equal value belonging to private individuals, the department shall maintain a description of the lands to be conveyed and a description of the lands belonging to individuals to be deeded to the state. Before any of the lands are deeded to an individual as provided in this subpart, the person or persons owning the lands to be deeded to the state shall execute a conveyance of those lands to the state. The attorney general shall examine the title to the lands deeded to the state and certify to the department whether or not the conveyance is sufficient to vest in the state a good and sufficient title to the land free from any liens or encumbrances. If the attorney general certifies that the deed vests in the state a good and sufficient title to the deeded lands free from any liens or encumbrances, the department shall execute a deed to the individual of the lands to be conveyed by the state selected by the department in lieu of the lands.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.2107 Acquired lands; classification; control; application by private individual for exchange.**

Sec. 2107. If the state acquires lands under this subpart, under former Act No. 193 of the Public Acts of 1911, or pursuant to the laws of the United States providing for an exchange of lands between the United States and the state, the lands acquired by the state shall become a part or portion of that class of lands to which the lands relinquished in lieu of the lands formerly belonged, and shall be subject to the same supervision and control and laws of the state to which the lands relinquished or conveyed by the state would have been subject had they remained the property of the state. However, an application from private individuals for the exchange of their lands for lands proposed to be acquired by the state from the United States under section 2104 shall not be received, filed, or in any manner considered or acted upon until after the state has received conveyance of the lands from the United States, and then applications from private individuals for the exchange of their lands shall be filed, considered, and acted upon only in the order in which they are received.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.2108 Conveyance to United States pursuant to property rights acquisition act.**

Sec. 2108. Any land that is exchanged, relinquished, or otherwise conveyed to the United States under this subpart shall be conveyed pursuant to the property rights acquisition act, Act No. 201 of the Public Acts of 1986, being sections 3.251 to 3.262 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**SUBPART 4**

**RECORD OF DEEDS FOR TAX HOMESTEAD LANDS**

**324.2109 Tax homestead lands; legal records; certified copies as evidence.**

Sec. 2109. The department shall record, in a suitable book or books kept for that purpose, true copies of all deeds issued by the department for tax homestead lands under the laws of this state providing for the disposal of tax homestead lands, and these copies of deeds issued and deeds which may hereafter be issued are legal records. These legal records, or a transcript of the records, duly certified by the department or other officer having custody of the records, may be read in evidence in all courts of this state, with the same force and effect as the original tax homestead deed.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2110 Tax homestead lands; record of copy of deed.**

Sec. 2110. The registers of deeds in the several counties of this state shall receive and record all copies of tax homestead deeds, duly certified to by the department or other officer having the custody of the records, and the record of the certified copy has the same force and effect as the record of the original deed.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2111 Records; certified copy; fee; recording conditions; perjury.**

Sec. 2111. The department or other officer having charge of the records described in this subpart shall, upon application from any person, make a certified copy of any tax homestead deed, as provided in this subpart, upon the payment by the applicant of \$1.50 for each certified copy. As a condition precedent to the recording of a copy of the deed, there shall be attached to the certified copy a sworn statement of the grantee named in the deed, or his or her assign, heir, trustee, or grantee, that the original deed has been lost or is not available for record, and any person swearing falsely under this subpart is subject to the penalties of perjury.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 6**

### **SALE AND RECLAMATION OF SWAMP LANDS**

### **324.2120 Swamp lands; adoption of notes of surveys on file; sale; restrictions; procurement of records.**

Sec. 2120. (1) The department shall adopt the notes of the surveys on file in the surveyor general's office as the basis upon which they will receive the swamp lands granted to the state by an act of congress of September 28, 1850.

(2) Swamp lands described in subsection (1) shall only be sold in the same legal subdivisions in which they are received by the state, and none of the lands are subject to private entry until the lands have been offered for sale at public auction as provided in former Act No. 187 of the Public Acts of 1851.

(3) The department may procure all necessary books, maps, or plats of swamp lands as required for the speedy and systematic transaction of the business of the department, and all proper charges for the books, maps, or plats shall be paid out of funds received from the sale of lands under former Act No. 187 of the Public Acts of 1851.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 7**

### **RECEIPT OF MONEY FROM SALE OF SWAMP LANDS**

### **324.2121 Swamp lands; interest of state; release.**

Sec. 2121. The state treasurer may receive from the United States any money that may have been received, or that may hereafter be received, for any of the swamp lands donated to this state, and the department may take an assignment of all bounty land warrants received for any swamp lands sold in this state since the act of congress approved September 28, 1850, and release the interest of the state in any lands sold or entered with the warrants to purchasers or their assigns.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 8**

### **EASEMENTS OVER STATE OWNED LANDS**

### **324.2123 Granting easement over state owned land under jurisdiction of department to individual; conditions.**

Sec. 2123. The department may grant an easement over state owned land under the jurisdiction of the department to an individual only if all of the following conditions are met:

- (a) The individual does not have other access to the individual's land.
- (b) The easement does not conflict with an existing program or management plan of the department or a local ordinance.
- (c) The roadway for which the easement is granted is open to public access and is not a roadway for the exclusive use of the grantee.
- (d) The easement provides the logical and most feasible access to the individual's land.
- (e) The width of the roadway is restricted to the minimum consistent with the quality of the road required.
- (f) The individual agrees to construct, if necessary, and maintain the road.
- (g) The individual offers a similar roadway easement to the department across the land to which the easement is to provide access.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2124 Granting easement over state owned land under jurisdiction of department prohibited.**

Sec. 2124. The department shall not grant an easement over state owned land under the jurisdiction of the department if any of the following occur:

- (a) The proposed easement is over land designated as a wilderness area, wild area, or natural area under part 351.
- (b) The proposed easement is over land in an area closed to vehicular traffic pursuant to a management plan approved by the department.
- (c) The construction or use of the new or existing roadway will result in unnecessary damage to or destruction of the surface, soil, animal life, fish or aquatic life, or property.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2125 Granting easement over state owned land under jurisdiction of department to individual; interest in land required; "interest" defined; construction of words and phrases used to define interest.**

Sec. 2125. (1) The department shall not grant an easement over state owned land under the jurisdiction of the department to an individual unless that individual has an interest, as that term is defined in this section, in the land to which the easement is to provide access.

(2) As used in this section, "interest" means an estate in possession other than a chattel interest, which may be in severalty, joint tenancy, tenancy by the entireties, or tenancy in common.

(3) The words and phrases used in subsection (2) to define interest shall be construed pursuant to chapter 62 of the Revised Statutes of 1846, being sections 554.1 to 554.46 of the Michigan Compiled Laws; Act No. 126 of the Public Acts of 1925, being section 557.81 of the Michigan Compiled Laws; and Act No. 210 of the Public Acts of 1927, being sections 557.101 to 557.102 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2126 Payment of charges by individual applying for easement.**

Sec. 2126. Before the department may grant an easement under this subpart, the individual applying for the easement shall pay charges as required by the department. The charges shall be the same as those charges required for the granting of an easement under Act No. 10 of the Public Acts of 1953, being section 322.651 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2127 Disposition of revenues.**

Sec. 2127. The revenues received from the charges levied under section 2126, less amounts necessary to pay the expenses of administering this subpart, shall be credited to the state fund from which the revenue is appropriated for the payment in lieu of taxes on the land crossed.



**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2128 Termination of easement; hearing.**

Sec. 2128. (1) If the land to which an easement is granted by the department pursuant to this subpart or former Act No. 421 of the Public Acts of 1982 is subsequently subdivided, as this term is defined by section 102 of the subdivision control act, Act No. 288 of the Public Acts of 1967, being section 560.102 of the Michigan Compiled Laws, the easement shall terminate.

(2) If an individual who obtains an easement pursuant to this subpart violates the terms of the easement, the easement shall terminate, and any rights in the easement shall terminate, after opportunity for a hearing under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, is provided.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 9**

### **EASEMENTS FOR PUBLIC UTILITIES**

### **324.2129 Easements for public utilities over state lands; disposition of revenue.**

Sec. 2129. The department may grant easements, upon terms and conditions the department determines just and reasonable, for state and county roads and for the purpose of constructing, erecting, laying, maintaining, and operating pipelines, electric lines, telecommunication systems, and facilities for the intake, transportation, and discharge of water, including pipes, conduits, tubes, and structures usable in connection with the lines, telecommunication systems, and facilities, over, through, under, and upon any and all lands belonging to the state which are under the jurisdiction of the department and over, through, under, and upon any and all of the unpatented overflowed lands, made lands, and lake bottomlands belonging to or held in trust by this state. Except as otherwise specifically provided by law, revenue received as the result of the granting of an easement shall be deposited in the state fund from which revenues are appropriated for the payment in lieu of taxes required to be paid in relation to state land under subpart 14.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 10**

### **LAND EXCHANGE FACILITATION FUND**

### **324.2130 Definitions.**

Sec. 2130. As used in this subpart:

(a) "Board" means the Michigan natural resources trust fund board established in part 19.

(b) "Fund" means the land exchange facilitation fund created in section 2134.

(c) "Land" includes lands, tenements, and real estate and rights to and interests in lands, tenements, and real estate.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2131 Designation and sale of surplus land; restrictions.**

Sec. 2131. (1) Except as otherwise provided in subsection (2) or (3), the department may designate as surplus land any state owned land that is under the control of the department and that has been dedicated for public use and may, on behalf of the state, sell that land if the department determines all of the following:

(a) That the sale will not diminish the quality or utility of other state owned land.

(b) That the sale is not otherwise restricted by law.

(c) That the sale is in the best interests of the state.

(d) That 1 or both of the following conditions are met:

(i) The land has been dedicated for public use for not less than 5 years immediately preceding its sale and is not needed to meet a department objective.

(ii) The land is occupied for a private use through inadvertent trespass.

(2) The department shall not authorize the sale of surplus land as provided in subsection (1) if the proceeds from the sale of the land will cause the fund to exceed \$2,500,000.00.

(3) Except as provided in section 74102b, the department shall not designate as surplus land any land within a state park or state recreation area.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2001, Act 174, Imd. Eff. Dec. 11, 2001;—Am. 2006, Act 308, Imd. Eff. July 20, 2006.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2132 Sale of surplus land; price; methods; sale to highest bidder; condition to acceptance of bid; notice; disposition of proceeds; quitclaim deed.**

Sec. 2132. (1) The department may sell surplus land at a price of not less than its fair market value as determined by an appraisal.

(2) The sale of surplus land shall be conducted by the department through 1 of the following methods:

(a) A sealed or oral bid public auction sale.

(b) A negotiated sale.

(3) The sale of surplus land through a sealed or oral bid public auction sale shall be to the highest bidder. A bid shall not be accepted for less than the fair market value of the surplus land as determined by an appraisal.

(4) A notice of the sale of surplus land shall be given as provided in section 2133.

(5) The proceeds from the sale of surplus land shall be deposited into the fund.

(6) Surplus land that is sold under this subpart shall be conveyed by quitclaim deed approved by the attorney general.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1998, Act 117, Imd. Eff. June 9, 1998.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2133 Notice of sealed or oral bid public auction or notice of negotiated sale; publication and contents; list of surplus lands.**

Sec. 2133. (1) A notice of a sealed or oral bid public auction sale of surplus lands shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.1461 of the Michigan Compiled Laws, not less than 10 days before the sale. The newspaper shall be published in the county where the surplus lands are located. If a newspaper is not published in the county where the surplus lands are located, the notice shall be published in a newspaper in a county nearest to the county in which the lands are located. A notice shall describe the general location of the surplus lands to be offered at the sale and the date, time, and place of the sale. Upon request, the department shall furnish a list of surplus lands being offered for sale at public auction. The surplus land sale list shall include all of the following:

(a) The date, time, and place of sale.

(b) Descriptions of surplus lands being offered.

(c) The conditions of sale.

(2) A notice of a negotiated sale of surplus lands shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961 not less than 10 days before the department authorizes the sale. The newspaper shall be published in the county where the surplus lands are located. If a newspaper is not published in the county where the surplus lands are located, the notice shall be published in a newspaper in a county nearest to the county in which the lands are located. A notice shall describe the general location of the surplus lands offered in a negotiated sale and the date, time, and place that the department will meet to authorize the sale. Upon request, the department shall furnish a list of surplus lands being offered in a negotiated sale. The surplus land negotiated sale list shall include both of the following:

(a) The date, time, and place that the department will meet to authorize the sale.

(b) Descriptions of surplus lands being offered.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2134 Land exchange facilitation fund; creation; administration; money carried over.**

Sec. 2134. (1) A land exchange facilitation fund is created in the state treasury. The fund shall be

administered by the department and shall be used only as provided in section 2135.

(2) Any money, including interest earned by the fund, remaining in the fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years and shall not be credited to or revert to the general fund.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2135 Land exchange facilitation fund; use of money; purchase of land identified in recommendation; report.**

Sec. 2135. (1) Money from the fund shall be used by the department only for the following purposes:

(a) Upon the recommendation of the department and authorization of the board, the purchase of land for natural resources management, administration, and public recreation that has been approved by the legislature for purchase pursuant to section 1908.

(b) The costs of advertising, appraisals, negotiations, and closings incurred by the department in the sale of surplus land.

(c) The costs of appraisals, negotiations, and closings incurred by the department in the purchase of land authorized by this subpart.

(2) If the board does not authorize or reject a recommendation of the department to purchase land within 60 days, the department may purchase the land identified in the recommendation.

(3) The report required by section 506 shall include a summary of all the disbursements of money from the fund for the purposes enumerated in subsection (1).

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2136 Construction of subpart.**

Sec. 2136. This subpart does not limit the authority of the department to do 1 or both of the following:

(a) To exchange land as provided in subpart 3.

(b) To sell land as provided in the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 11**

### **CONSERVATION AND HISTORIC PRESERVATION EASEMENT**

#### **324.2140 Definitions.**

Sec. 2140. As used in this subpart:

(a) "Conservation easement" means an interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.

(b) "Historic preservation easement" means an interest in land that provides a limitation on the use of a structure or site that is listed as a national historic landmark under chapter 593, 49 Stat. 593, 16 U.S.C. 461 to 467, commonly known as the historic sites, buildings, and antiquities act; is listed on the national register of historic places pursuant to the national historic preservation act of 1966, Public Law 89-665, 16 U.S.C. 470 to 470a, 470b, and 470c to 470x-6; is listed on the state register of historic sites pursuant to Act No. 10 of the Public Acts of 1955, being sections 399.151 to 399.152 of the Michigan Compiled Laws; or is recognized under a locally established historic district created pursuant to the local historic districts act, Act No. 169 of the Public Acts of 1970, being sections 399.201 to 399.215 of the Michigan Compiled Laws, or requires or prohibits certain acts on or with respect to the structure or site, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the structure or site or in an order of taking, if the interest is appropriate to the preservation or

restoration of the structure or site.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2141 Conservation easement; enforcement; recordation.**

Sec. 2141. A conservation easement granted to a governmental entity or to a charitable or educational association, corporation, trust, or other legal entity is enforceable against the owner of the land or body of water subject to the easement despite a lack of privity of estate or contract, a lack of benefit running to particular land or a body of water, or the fact that the benefit may be assigned to another governmental entity or legal entity, including a conservation easement executed before March 31, 1981. The easement shall be recorded with the register of deeds in the county in which the land is located to be effective against a bona fide purchaser for value without actual notice.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2142 Historic preservation easement; enforcement; recordation.**

Sec. 2142. A historic preservation easement granted to a governmental entity or to a charitable or educational association, corporation, trust, or other legal entity whose purposes include the preservation or restoration of structures or sites described in section 2140(b) is enforceable against the owner of the structure or site subject to the easement despite a lack of privity of estate or contract, a lack of benefit running to the particular structure or site, or the fact that the benefit may be assigned to another governmental entity or legal entity whose purposes include the preservation or restoration of structures or sites described in section 2140(b), including a historic preservation easement executed before March 31, 1981. The easement shall be recorded with the register of deeds in the county in which the land is located to be effective against a bona fide purchaser for value without actual notice.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2143 Enforceability of restriction, easement, covenant, or condition.**

Sec. 2143. This subpart does not render unenforceable a restriction, easement, covenant, or condition that does not have the benefit of this subpart.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2144 Conservation easement or historic preservation easement as interest in real estate; document creating easement as conveyance; recordation; enforcement; assignment.**

Sec. 2144. (1) A conservation easement or historic preservation easement is an interest in real estate, and a document creating 1 of those easements shall be considered a conveyance of real estate and shall be recorded in accord with Act No. 103 of the Public Acts of 1937, being sections 565.201 to 565.203 of the Michigan Compiled Laws, in relation to the execution and recording of instruments. The easement shall be enforced either by an action at law or by an injunction or other equitable proceedings.

(2) A conservation easement may be assigned to a governmental or other legal entity, which shall acquire that interest in the same manner as the governmental entity or legal entity acquires an interest in land.

(3) A historic preservation easement may be assigned to a governmental or other legal entity whose purposes include the preservation or restoration of structures or sites described in section 2140(b), and the governmental or legal entity shall acquire that interest in the same manner as the governmental entity or legal entity acquires an interest in land.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **SUBPART 12**

### **ACQUISITION OF SURFACE LANDS FOR WATER QUALITY CONTROL**

**324.2145 Iron ore mining; public interest; acquisition of property; conditions.**

Sec. 2145. The business of mining and beneficiating low-grade iron ore, as defined in Act No. 77 of the Public Acts of 1951, being sections 211.621 to 211.626 of the Michigan Compiled Laws, and the business of the beneficiating and agglomerating of underground iron ore as defined in Act No. 68 of the Public Acts of 1963, being sections 207.271 to 207.279 of the Michigan Compiled Laws, are declared to be in the public interest and necessary to the public welfare, and the acquisition of private property for development of an adequate water supply, for development of the necessary storage, and for processing and treatment of liquid and solid wastes or other nonmarketable products resulting from the business is declared to be for a public purpose. The department may acquire by condemnation parcels of land that are needed for the establishment of areas, settling ponds, and basins for the storage, processing, and treatment of the wastes or other products, together with the necessary appurtenant canals, pipelines, power lines, sluiceways, roadways, dams, and dikes. The department shall lease, convey, or exchange such parcels of land to any person engaged in or proposing to engage in the business of mining and beneficiating low-grade iron ore or beneficiating and agglomerating underground iron ore, or both, upon a showing to the satisfaction of the department that the person has acquired at least 75% of the necessary land and that the person has been unable to purchase the remaining necessary parcels at a fair market value, and upon the further showing to the satisfaction of the department that the remaining parcels are necessary for the development and operation of the water supply areas, settling ponds, and basins to prevent the unlawful pollution of waters of the state or to comply with the requirements of other public agencies of the state. This subpart does not authorize the taking of any property owned by a political subdivision of the state or devoted to or used for a public or railroad purpose or the taking of any private property lying within the limits of any incorporated city or village or lands within a recorded plat in an unincorporated village.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.2146 Condemnation of land; compensation to owners.**

Sec. 2146. The department shall provide adequate compensation for any owner-occupied residences of owner-occupied or owner-operated farmland that it condemns pursuant to this subpart to enable the owners of the property to purchase like property suitable to their needs and in standard condition from the proceeds of the compensation, which shall at a minimum be equal to the valuation of the housing or agricultural land as of the date when proceedings for the condemnation were initiated by the department.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.2147 Lease or conveyance of land; conditions for issuance.**

Sec. 2147. The department shall require as a condition for the issuance of any lease or conveyance authorized by this subpart the payment by the lessee of the full amount of compensation made or to be made by the department of the lands it has condemned. The lease shall contain provisions that protect the ownership of materials that are deposited upon the lands.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**SUBPART 13****TAX ON TAX REVERTED, RECREATION, AND FOREST LANDS****324.2150 Tax on tax reverted, recreation, and forest lands; exemption; detailed statement of account; descriptions of lands; warrant; proration; payment of tax from general fund.**

Sec. 2150. (1) On December 1 of each year, there shall be paid into the treasury of each county in which are located tax reverted, recreation, or forest lands under the control and supervision of the department, and any other lands held by the department, except lands purchased after January 1, 1933 for natural resource purposes, a tax of \$2.50 per acre or major portion of an acre for years before December 1, 1994 and \$2.00 per acre or major portion of an acre for years after November 30, 1994 on all the lands that belong to this state on December 1 in each year. The tax imposed under this section shall be in lieu of all other taxes now levied against the state land under any existing law. State land on which payments in lieu of taxes are made pursuant



to subpart 14 are exempt from this subpart. The department of treasury shall make a detailed statement of account between the state and each county in which the lands are situated, including the descriptions of the lands, and render the detailed statement of account to the county treasurer of the county. The department of treasury shall cause a warrant to be drawn on the state treasurer payable for the amount indicated on the detailed statement of account to be due to the county. The county treasurer of each county shall immediately make up a detailed statement of the account between the county and each township and school district, prorating the amount received by the county according to the number of acres of the lands located in each unit. For disbursements made before December 1, 1994, the proration shall be 40% to county general fund, 40% to township general fund, and 20% to school operating fund. For disbursements made after November 30, 1994, the proration shall be 50% to the county general fund and 50% to the township general fund. The county treasurer shall immediately issue his or her warrant to each of the units according to the detailed statement of account.

(2) The tax on tax reverted, recreation, forest lands, or other lands under the control of the department on which payments are made under this subpart shall be paid from the general fund.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2151 Tax on certain state lands; duty of department; record; warrant.**

Sec. 2151. The department shall enter upon its records against each description of the land the amounts provided by this subpart and shall certify the amounts to the department of treasury, which shall draw a warrant on the state treasurer for those amounts, the tax on tax reverted, recreation, forest lands, or other lands under the control of the department to be paid out of any money in the general fund not otherwise appropriated. The amounts shall be forwarded by the department of treasury to the county treasurers.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## **SUBPART 14**

### **PAYMENT IN LIEU OF TAXES ON CERTAIN STATE LANDS**

### **324.2152 List of certain real property owned by state and controlled by department; furnishing list to state tax commission.**

Sec. 2152. For the purpose of this subpart, the department shall furnish the state tax commission with a list of all real property owned by the state and controlled by the department that was or is acquired on or after January 1, 1933 by purchase from the owner or owners of the real property and the Mason game farm, showing all descriptions.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2153 Valuation of real property; report to assessing district; entering description upon assessment rolls; exemption; "local taxing unit" defined; adjustment; valuation established.**

Sec. 2153. (1) For purposes of this subpart, the state tax commission shall determine the valuation of real property described in section 2152 before February 1 of each year. The state tax commission shall determine the valuation of real property as provided in subsection (7).

(2) Not later than February 15 of each year, the state tax commission shall make a report to the assessing districts of this state in which the real property is located, giving a description of the real property in the assessing district held by the state and the valuation as fixed by the state tax commission pursuant to subsection (7).

(3) Except as otherwise provided in subsection (7), the state tax commission shall furnish a valuation to the assessing officers that shall be at the same value as other real property is assessed in the assessment district. In fixing the valuation, the state tax commission shall not include improvements made to or placed upon that real property.

(4) Upon receipt of the valuation under subsection (3), the assessing officer shall enter upon the assessment rolls of each municipality or assessing district the respective descriptions of the real property and the fixed valuation and, except as otherwise provided in subsection (5), shall assess that real property for the purposes

of this subpart at the same rate as other real property in the assessing district. A local taxing unit may by resolution permanently exempt that real property from any tax levied by that local taxing unit. As used in this subsection, "local taxing unit" means a city, village, township, county, school district, intermediate school district, community college, authority, or any other entity authorized by law to levy a tax on real property.

(5) Except as limited in subsection (6) and as otherwise provided in subsection (7), the assessing officer may adjust the valuation determined by the state tax commission. If an adjustment to the valuation certified by the state tax commission is made, the assessing officer shall certify all of the following to the department, not later than the first Wednesday after the first Monday in March:

(a) The amount and percentage of any general adjustment of assessed valuation of property located in the assessing district other than property described in section 2152.

(b) The amount and percentage of any change in the assessment roll.

(c) The relation of the total valuation to that reported by the state tax commission.

(d) The adjusted total of conservation land.

(6) The following shall not be included in an adjustment under subsection (5):

(a) Any general adjustment of assessed valuation of property located in the assessing district.

(b) Assessments for special improvements.

(c) Any millage in excess of the millage rate levied in 2004.

(d) The tax levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(7) Property valuations shall be established as follows:

(a) For property valuations established under this subpart in 2004, the 2004 valuation shall be the valuation of the property in 2004 through 2008.

(b) In 2009 and each year after 2009, the valuation of property shall not increase each year by more than the increase in the immediately preceding year in the general price level or 5%, whichever is less. As used in this subdivision, "general price level" means that term as defined in section 33 of article IX of the state constitution of 1963.

(c) If property is acquired after 2004, the initial property valuation determined under this section shall be the valuation for each subsequent year until the next adjustment under subdivision (b) occurs.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2004, Act 513, Imd. Eff. Jan. 3, 2005.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2154 Statement of assessment; review; payment; aggregate charges; amount available.**

Sec. 2154. (1) The treasurer or other officer charged with the collection of taxes for an assessing district shall annually forward a single statement of the assessment of all property for which payment is claimed under this subpart to the Lansing office of the department at the same time that statements are mailed for a winter property tax levy under section 44 of the general property tax act, 1893 PA 206, MCL 211.44. The statement shall include an itemization of the valuation and assessment for each individual parcel for which payment is claimed under this subpart. The Lansing office of the department shall review the statement. Subject to subsection (2), if the assessment has been determined according to this subpart, authorize the state treasurer to pay the amount of the assessment by warrant on the state treasury.

(2) Beginning in state fiscal year 2005, the aggregate amount for all payments to all assessing districts under subsection (1) shall be charged as follows:

(a) Payments in state fiscal year 2005 shall be charged as follows:

(i) Not more than 50% from the restricted revenue sources of the department of natural resources.

(ii) The remaining balance after the charge under subparagraph (i) from the general fund.

(b) Payments in state fiscal year 2006 and each state fiscal year after 2006 shall be charged as follows:

(i) That portion of the payment that represents an assessment by a local school district, intermediate school district, or community college district shall be charged against the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(ii) The balance of any payment remaining after the charge made in subparagraph (i) shall be charged as follows:

(A) Not more than 50% from restricted revenue sources of the department of natural resources.

(B) The remaining balance after the charge under sub-subparagraph (A), from the general fund.

(3) For the 2004 state fiscal year and each state fiscal year after 2004, if the amount available for payment to all local assessing districts from the general fund or from any restricted fund is less than the amount required for payment to all local assessing districts from the general fund or from any restricted fund, the amount available for payment to each local assessing district shall be distributed in the same proportion from

the general fund or from any restricted fund that the required payment to that local assessing district is to the total of all required payments from the general fund or from any restricted fund. Partial payments do not satisfy payments obligated by this state.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2004, Act 513, Imd. Eff. Jan. 3, 2005.

**Popular name:** Act 451

**Popular name:** NREPA

## SUBPART 15

### PROTECTION OF STATE OWNED LANDS

#### **324.2155 “Damages” defined.**

Sec. 2155. As used in this subpart, “damages” means the fair market value on the stump or at the mill, whichever is greater of a forest product cut or removed, or the fair and actual value of any other property removed or damaged in trespass, plus any other damages caused before, during, or after the cutting or removal.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2156 Removal of forest products or property from state owned land; accepting or receiving property in violation of subsection (1).**

Sec. 2156. (1) Unless a person has the written permission of the department or is acting as authorized in R 299.321 or R 299.331 of the Michigan administrative code, a person shall not enter upon, or induce or direct any person to enter upon, any state owned land and cut, or induce or direct to be cut, or remove, or induce or direct to be removed, any logs, posts, poles, ties, shrubs, or trees, or any other forest product. In addition, a person shall not injure or remove, or induce or direct any other person to injure or remove, any buildings, fences, improvements, sand, gravel, marl or other minerals, or other property belonging to or appertaining to state owned land.

(2) A person shall not accept or receive by purchase or otherwise a forest product, improvement, or other property unlawfully cut or removed, or both, knowing the property to have been unlawfully cut or removed, or both, in violation of subsection (1).

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2157 Violation; penalties; determination of total value; prior convictions; prohibition.**

Sec. 2157. (1) A person who violates section 2156 is guilty of a crime as follows:

(a) If the damages are less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or 3 times the aggregate value of the forest product, improvement, or property involved, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the forest product, improvement, or property involved, whichever is greater, or both imprisonment and a fine:

(i) The value of the forest product, improvement, or property involved is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under section 2156.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the forest product, improvement, or property involved, whichever is greater, or both imprisonment and a fine:

(i) The value of the forest product, improvement, or property involved is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate section 2156. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the forest product, improvement, or property involved, whichever is greater, or both imprisonment and a fine:

- (i) The forest product, improvement, or property involved has a value of \$20,000.00 or more.
  - (ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under section 2156. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).
- (2) The values of the forest product, improvement, or property involved in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the forest products, improvements, or property involved.
- (3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:
- (a) A copy of the judgment of conviction.
  - (b) A transcript of a prior trial, plea-taking, or sentencing.
  - (c) Information contained in a presentence report.
  - (d) The defendant's statement.
- (4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2001, Act 155, Eff. Jan. 1, 2002.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2158 Violation; additional penalties.**

Sec. 2158. (1) In addition to the penalties provided for in section 2157, a person convicted of violating this subpart shall forfeit in a civil action filed by the state a sum of up to 3 times the actual damages, but not less than \$50.00, that were caused by the unlawful act, and court costs and attorney fees. In addition, the material or other property cut or removed shall be seized by the state, and title to the property shall be in the state. In addition, equipment used to violate this subpart may be seized and disposed of to the best advantage of the state as determined by the department as required under sections 1603 and 1604.

(2) A court in which a conviction for a violation of this subpart is obtained shall order the defendant to forfeit to the state a sum as set forth in subsection (1). If 2 or more defendants are convicted of a violation of this subpart, the forfeiture shall be declared against them jointly.

(3) If a defendant fails to pay upon conviction the sum ordered by the court to be forfeited, the court shall either impose a sentence and require the defendant, as a condition of the sentence, to satisfy the forfeiture in the amount prescribed and fix the manner and time of payment, or make a written order permitting the defendant to pay the sum to be forfeited in installments at those times and in those amounts that in the opinion of the court the defendant is able to pay.

(4) If a defendant defaults in payment of the sum forfeited or of an installment of that sum, the court on motion of the department or upon its own motion may require the defendant to show cause why the default should not be treated as a civil contempt, and the court may issue a summons or warrant of arrest for his or her appearance. Unless the defendant shows that the default was not due to an intentional refusal to obey the order of the court or a failure to make a good faith effort to obtain the funds required for the payment, the court shall find that the default constitutes a civil contempt.

(5) If in the opinion of the court the defendant's default in the payment of the forfeiture does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the forfeiture or of each installment, or revoking the forfeiture or the unpaid portion of the forfeiture, in whole or in part.

(6) A default in the payment of the forfeiture or an installment payment may be collected by any means authorized for the enforcement of a judgment under chapter 60 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.6001 to 600.6098 of the Michigan Compiled Laws.

(7) A court receiving forfeiture damages shall remit the damages with an abstract or register of actions to the department, which shall deposit the damages with the state treasurer, who shall deposit the damages in the fund that was used to purchase the land on which the violation occurred.

(8) All money received by the disposal of seized property under this subpart shall be deposited with the state treasurer, who shall deposit the money in the fund that was used to purchase the land on which the

violation occurred.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## SUBPART 16

### CERTIFIED COPIES OF FIELD NOTES, MAPS, RECORDS, AND PAPERS

#### **324.2160 Delivery of records as to land titles and surveys; certified copies admissible as evidence.**

Sec. 2160. Upon receipt of an application of any person, and payment by the applicant of the fees provided for in this part, the department shall make and deliver to the applicant a true copy of any field notes, maps, records, or papers possessed by the department appertaining to land titles or to the original surveys of any of the lands in this state. Such a true copy, when certified to by the department under its seal, or the record thereof when recorded in the office of the register of deeds of the proper county, may be admitted in evidence in all courts and places in which the title or boundary of any land is in question, and shall have the same force and effect, as evidence, as though chapter XXXVI, 5 Stat. 384, had named the department as the officer to whom the surveyor general should deliver all the field notes, maps, records, and other papers appertaining to land titles.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2161 Prices and charges; schedule.**

Sec. 2161. The following schedule of prices and charges shall be observed by the department:

- (a) For field and meander notes, per survey township, \$8.00.
- (b) For each official certificate with seal, \$1.00.
- (c) For township plats showing vacant state lands only, each, 25 cents.
- (d) For township plats showing vacant state lands with streams, each, 50 cents.
- (e) For copies of all records and papers that the department may be required to furnish by law, for each 100 words, 15 cents.
- (f) For tax statements on each description of land, per year, 6 cents.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

#### **324.2162 Disposition of fees.**

Sec. 2162. The fees received for all services under this part shall be paid into the state treasury and credited to the general fund.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 23.

### AGRICULTURE AND THE ENVIRONMENT

#### **324.2301 Definitions.**

Sec. 2301. As used in this part:

- (a) "Department" means the department of environmental quality.
- (b) "Director" means the director of the department.
- (c) "Roundtable" means the agriculture and rural communities roundtable convened under section 2303.
- (d) "Rural county" means a county with a population of less than 70,000.
- (e) "Standing committees" means the committees of the senate and house of representatives with primary responsibility for agriculture.

**History:** Add. 2005, Act 47, Imd. Eff. June 16, 2005.

**Popular name:** Act 451

**Popular name:** NREPA



### **324.2303 Agriculture and rural communities roundtable; participants; consultation.**

Sec. 2303. (1) The director shall convene an agriculture and rural communities roundtable to discuss how the laws, rules and policies administered by the department affect farmers, food processors, agribusiness, rural counties, and cities, villages, and townships in rural counties.

(2) The director shall invite at least all of the following to participate in the roundtable:

- (a) Two individuals from an association representing farmers.
- (b) Two individuals from an association representing food processors.
- (c) Two individuals from an association representing agribusiness.
- (d) One individual representing a township in a rural county.
- (e) One individual representing a city or village in a rural county.
- (f) One individual representing a rural county.

(3) Before extending invitations to participate in the roundtable, the director shall consult with the chairpersons of standing committees.

**History:** Add. 2005, Act 47, Imd. Eff. June 16, 2005.

**Compiler's note:** For abolishment of the agriculture and rural communities roundtable and transfer of its powers and duties to the department of environmental quality, see E.R.O. No. 2007-9, compiled at MCL 324.99909.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2305 Meetings.**

Sec. 2305. (1) The first meeting of the roundtable shall be convened by the director within 90 days after the effective date of the amendatory act that added this section.

(2) The director shall convene the roundtable at least twice each calendar year, except that if the amendatory act that added this section takes effect after September 30, the roundtable shall convene at least once the first calendar year. The roundtable may advise the director on the need for a more frequent meeting schedule.

(3) The meetings of the roundtable shall be open to the general public and shall be held in a place available to the general public.

(4) The department shall provide notice of each meeting of the roundtable by posting on the department website and such other means as the department determines appropriate.

(5) At least 1 meeting of the roundtable each year shall be held in a rural community. At such a meeting, the public shall be provided an opportunity to address the roundtable on issues within its purview.

(6) The department shall prepare a summary of each meeting of the roundtable including a department response to issues raised during the roundtable meeting. The department shall do both of the following:

- (a) Post the summary on its website.
- (b) Provide a copy of the summary to the members of the roundtable, any member of the public requesting a copy, and to the standing committees.

**History:** Add. 2005, Act 47, Imd. Eff. June 16, 2005.

**Compiler's note:** For abolishment of the agriculture and rural communities roundtable and transfer of its powers and duties to the department of environmental quality, see E.R.O. No. 2007-9, compiled at MCL 324.99909.

**Popular name:** Act 451

**Popular name:** NREPA

## **PART 25 ENVIRONMENTAL EDUCATION**

### **324.2501 Purpose of part.**

Sec. 2501. The purpose of this part is to facilitate an understanding by citizens of this state of the natural environment including an understanding of basic sciences, ecological sciences, and of the connection between human beings, air, land, water, and other living things, as well as how these systems relate to the global environment, thus making it possible for human beings to make informed decisions regarding protection and conservation of the environment and utilization of the natural resources in a wise and prudent fashion.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2502 Definitions.**

Sec. 2502. As used in this part:

(a) "Coordinator" means the coordinator of environmental education provided for in section 2503.

(b) "Environmental education" means the teaching of factual information regarding the natural environment, including basic sciences, ecological sciences, agricultural sciences, and other relevant subject matter, and the interdisciplinary process of developing a citizenry that is knowledgeable about the total environment and has the capacity and the commitment to engage in inquiry, problem solving, decision making, and action that will assure environmental quality.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2503 Coordinator of environmental education; appointment; responsibilities.**

Sec. 2503. The department shall appoint a coordinator of environmental education within the department of natural resources. The coordinator's primary responsibilities shall be to do the following:

(a) Coordinate the efforts of the department related to environmental education.

(b) Work with the department of education and with local education institutions, not-for-profit educational and environmental organizations, broadcasting entities, and private sector interests to support development of curricula, special projects, and other activities to increase understanding of the basic sciences and of natural resources and the environment.

(c) Provide technical assistance to school districts, schools, and educators wishing to undertake projects including, but not limited to, water quality, air quality monitoring, or habitat protection.

(d) If an environmental education advisory committee is established pursuant to section 2504, coordinate with the department in staffing the advisory committee.

(e) Provide assistance to the commission in implementing statewide environmental education strategies developed by the department and the department of education.

(f) Assist in identifying grants or other sources of funding for innovative educators and students of environmental education.

(g) Recommend the appropriate mechanism for establishment of a clearinghouse of environmental education materials, which would make environmental education materials available to educators throughout the state.

(h) Provide or support existing training and professional development programs for educators.

(i) Assist in the incorporation of environmental education into curriculum objectives for the state's elementary and secondary schools and develop appropriate assessment mechanisms.

(j) Promote awareness of section 1171a of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1171a of the Michigan Compiled Laws.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2504 Repealed. 2008, Act 397, Imd. Eff. Jan. 6, 2009.**

**Compiler's note:** The repealed section pertained to establishment of environmental education advisory committee.

### **324.2505 Environmental education fund; creation; disposition of assets; appropriation of civil fines to fund; money to remain in fund; administrator of fund for auditing purposes; establishment and operation of clearinghouse of environmental education materials.**

Sec. 2505. (1) The environmental education fund is created within the state treasury.

(2) The state treasurer shall direct the investment of the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. Interest and earnings from fund investments shall be credited to the fund.

(3) Twenty-five percent of the civil fines collected annually under the following parts or their predecessor acts, but not more than \$250,000.00 in any fiscal year, shall be appropriated to the fund:

(a) Part 31.

(b) Part 111.

(c) Part 115.

(4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) The department shall be the administrator of the fund for auditing purposes.

(6) Money in the fund shall be used to implement this part and may be used for the establishment and

operation of a clearinghouse of environmental education materials, which would make environmental education materials available to educators throughout the state.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2008, Act 397, Imd. Eff. Jan. 6, 2009.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2511 Designation as "green school"; criteria; approval of application.**

Sec. 2511. (1) A public or private school in this state may apply to be designated as a "green school" by submitting an application to the entity designated under subsection (2) by the county in which the school is located. A school is eligible to receive a designation under this section if the school meets 10 of the following criteria:

- (a) The school recycles paper.
- (b) The school reuses its magazines and newspapers for other projects.
- (c) The school has adopted an endangered species animal from 1 of several organizations and posted a picture of the animal in a main traffic area.
- (d) The school media center updates its print and nonprint ecological materials regularly.
- (e) An energy savings program has been instituted at the school.
- (f) Students at the school participate in a planned program of energy savings, including dusting coils on cafeteria refrigerators, placing film on windows, setting hot water heaters 1 degree lower, seeing how plants and trees strategically placed can save energy for the school, and checking proper inflation on bus tires and other school vehicles once a month.
- (g) The school has hosted a visit by an ecological spokesperson, a representative of the sierra club, an endangered animals species show, or a similar presentation.
- (h) The school has a birdhouse habitat project.
- (i) The school has established a natural Michigan garden project with native plants.
- (j) The school has solar power presentations or experiments, such as a solar cookout.
- (k) Classes do energy audits of their classrooms and make improvements, such as placing film on windows, caulking windows, or using kits to make windows more energy efficient.
- (l) The school has a printer cartridge recycling program through which the school earns money by selling the cartridges to 1 or more companies that buy cartridges from schools.
- (m) The school recycles batteries and has designated a representative to return them to an appropriate recycling program.
- (n) The school recycles cellular telephones and receives money for the telephones from recycling companies that work with schools.
- (o) The school observes earth day in some way in April.
- (p) Art classes at the school have a poster contest to support ecology concerns and a schoolwide display in conjunction with earth day activities.
- (q) The school has science class projects in which students do several home energy improvements, such as turn down hot water heaters, install home window insulation kits, clean coils on home refrigerators, and install draft guards for doors.
- (r) The school has an ecology club, whose activities include such activities as helping senior citizens make their homes more energy efficient, putting in new furnace filters, caulking windows, cleaning refrigerator coils in homes, and setting water heaters 1 degree lower.
- (s) The school's classes visit internet sites where clicking saves rainforest habitat and teachers document the students' efforts.
- (t) The school sets a goal of 5% less energy usage in the school and works with local power utilities to see progress toward the goal.

(2) A county shall designate a department of the county or the intermediate school district of the county to accept and consider the approval of an application under subsection (1).

**History:** Add. 2006, Act 146, Imd. Eff. May 22, 2006.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.2521 Status and assessment report; environmental indicators as basis; submission; uniformity with other states and nationally; responsibilities of other state agencies; "environmental indicator" defined.**

Sec. 2521. (1) The department of environmental quality, in conjunction with the department of natural

resources, shall biennially prepare a report that assesses the status of and trends related to the overall state of the natural environment in Michigan. The report shall be based upon environmental indicators identified by the departments of environmental quality and natural resources and upon data obtained through sound scientific methodologies and processes. The report shall be submitted to the governor, to the standing committees of the legislature with jurisdiction over issues primarily related to natural resources and the environment, and to the senate and house appropriations subcommittees on environmental quality and natural resources. The report shall be submitted not later than October 1, 2008 and every third year thereafter. The reports shall also be made available to the public electronically and, upon request, in paper format.

(2) The departments of environmental quality and natural resources shall monitor efforts undergoing in other states and nationally to establish uniformity among environmental indicators that might be included within the report.

(3) All state agencies shall cooperate with the departments of environmental quality and natural resources in carrying out their responsibilities under this section.

(4) As used in this section, "environmental indicator" means a measure of the state of the natural environment that can be derived from empirical data. The department shall use the most recent data available. If relevant data is not available, the department shall include in the report recommendations for gathering data in the future.

**History:** Add. 1999, Act 195, Imd. Eff. Dec. 16, 1999;—Am. 2005, Act 313, Imd. Eff. Dec. 27, 2005.

**Popular name:** Act 451

**Popular name:** NREPA